TIGARD CITY COUNCIL
MEETING

SEPTEMBER 20, 2005 6:30 p.m.

TIGARD CITY HALL
13125 SW HALL BLVD
TIGARD, OR 97223



PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are <u>estimated</u>; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. <u>Business agenda items can be heard in any order after 7:30 p.m.</u>

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments;
 and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

A G E N D A TIGARD CITY COUNCIL MEETING SEPTEMBER 20, 2005

• EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

6:30 PM

- WORKSHOP MEETING
 - 1.1 Call to Order City Council & Local Contract Review Board
 - 1.2 Roll Call
 - 1.3 Pledge of Allegiance
 - 1.4 Council Communications & Liaison Reports
 - 1.5 Call to Council and Staff for Non-Agenda Items
- 2. JOINT MEETING WITH THE INTERGOVERNMENTAL WATER BOARD (IWB) TO DISCUSS TIGARD'S WATER SUPPLY OPTIONS
 - a. Staff Report: Public Works Staff
 - b. Council and IWB Discussion
- 3. BRIEFING ON AN I-5/HIGHWAY 99W CONNECTOR
 - a. Staff Report: Engineering Staff
 - b. Council Discussion

- 4. BRIEFING ON THE APPLICATION OF PUBLIC FACILITY STANDARDS IN PRIVATE DEVELOPMENT AND CAPITAL IMPROVEMENT PROGRAM PROJECTS
 - a. Staff Report: Engineering Staff
 - b. Council Discussion
- 5. DISCUSSION OF OPTIONS FOR THE PROPOSED 79TH AVENUE LOCAL IMPROVEMENT DISTRICT
 - a. Staff Report: Engineering Staff
 - b. Council Discussion
- 6. PRESENTATION AND DISCUSSION OF WASHINGTON COUNTY ISSUE PAPERS RELATING TO BULL MOUNTAIN
 - a. Staff Report: Community Development Staff
 - b. Council Discussion
- 7. DISCUSSION OF GRAPHIC IDENTITY/BRANDING DESIGN CONCEPT
 - a. Staff Report: Administration Staff
 - b. Council Discussion
- 8. COUNCIL LIAISON REPORTS
- NON AGENDA ITEMS
- 10. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.

11. ADJOURNMENT

* * * * * * * * *

A CITY CENTER DEVELOPMENT AGENCY - AN URBAN RENEWAL AGENCY – MEETING WILL FOLLOW THE CITY COUNCIL MEETING

* * * * * * * * * *

AGENDA ITEM#_	
FOR AGENDA OF	September 20, 2005

CITY OF TIGARD, OREGON COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Tigard's Water Supply Options
PREPARED BY: Dennis Koellermeier DEPT HEAD OK CITY MGR OK
ISSUE BEFORE THE COUNCIL
THE COOK THE COOK
Tigard continues to be faced with decisions pertaining to securing a long term water supply.
Staff will brief the Council and IWB on the most current information available regarding our relationship with the
City of Portland, our membership with the Joint Water Commission (JWC), progress of the Aquifer Storage
Recovery (ASR) program expansion, Lake Oswego options, activities in the Willamette River Water Coalition,
and other water supply issues.
STAFF RECOMENDATION
Information only, no action is necessary tonight.

INFORMATION SUMMARY

The City has been actively pursuing ownership in long term water sources. Past and current Council goals and the visioning process have consistently directed the City to this goal. Tigard has worked on projects to achieve this goal by pursuing the regionalization of the Bull Run System and also by seeking membership in the Joint Water Commission. The City of Portland withdrew their support of a regional agency, therefore, Tigard and other suburban wholesalers have been involved in negotiations for a new wholesale water contract with the City of Portland. The culmination of those negotiation efforts will be reported on by staff.

Tigard has successfully gained membership in the Joint Water Commission (JWC). Membership is based on the ability to obtain a supply of 4 million gallons per day (mgd) from the JWC. Staff will report on projects relating to the JWC.

Tigard will soon be faced with making major decisions regarding some potential supply sources. Staff has been negotiating with the City of Portland for changes to the long term wholesale contract and will update Council. Tigard must soon make a decision on continuing our financial involvement in the Hagg Lake project with our JWC partners. Tigard has also revisited our supply contract with the City of Lake Oswego and staff will brief the Council on our water source options with them and review the potential for partnering with them on a future supply project. Tigard also continues to work with our partners in the Willamette River Water Coalition to protect our water rights and monitor water quality issues in the river.

Staff will also report on the continuing pursuit for increasing current capacity through our Aquifer Storage Recovery (ASR) Program and will update Council of the progress on current well construction, testing, and injection, and other water source options.

Staff will also present current information regarding the status of our summer water usage.

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Current Council Goals and the Visioning document identify the desire to obtain a long term water supply as well as to increase capacity as stated under Urban and Public Services, Water and Stormwater, Goal #1: "Actively participate in regional development of drinking water sources and adequate innovative funding mechanisms to develop those sources for Tigard users, while exploring local options for water reuse and groundwater source."

In addition, the current visioning process is recommending a more definitive goal: "Equity position in a regional water system by 2007."

ATTACHMENT LIST

N/A

FISCAL NOTES

N/A

AGENDA ITEM#_	
FOR AGENDA OF	September 20, 2005

CITY OF TIGARD, OREGON COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE I-5 Connector between Highway 99W and I-5
PREPARED BY: A.P. Duenas DEPT HEAD OK CITY MGR OK
ISSUE BEFORE THE COUNCIL
Informational briefing to Council on the proposed projects to connect I-5 and Highway 99W south of Tigard.
STAFF RECOMMENDATION
Staff recommends that Council ask questions as necessary to develop a full understanding of the proposed projects, their current status, and future timing for design and construction.
INFORMATION SUMMARY

There are two connector projects being developed to connect I-5 and Highway 99W. One project is a limited access expressway and the other is an arterial connection being pursued by Washington County to provide an alternative to Tualatin-Sherwood Road while the expressway project is being developed. The projects are further described as follows:

I-5 to Hwy 99W Connector

The purpose of the project is to address the problem of inadequate transportation facilities in the outer southwest quadrant of the Portland metropolitan area to serve the growing demand for regional and intrastate travel access to the area's federal and state highways (I-5 and 99W). The I-5/Hwy 99W Connector project recognizes the need for additional roadway capacity in the Tualatin/Sherwood/North Wilsonville areas to address regional and intrastate travel and goods movement needs. Currently this traffic uses the local street and arterial network to traverse this area. The effort to develop a high capacity, limited access corridor that addresses the problem of regional and statewide traffic flows impacting the study that can be amended into the Regional Transportation Plan has begun.

SE County Arterial

This project will consider arterial alternatives to serve the industrial areas recently added to the UGB in the north Wilsonville/Tualatin/Sherwood area. Alternatives will also consider local access to the I-5 to Hwy 99W Connector alignment, once one is identified.

Washington County staff are expected to be present at the meeting to provide the informational briefing to Council.

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

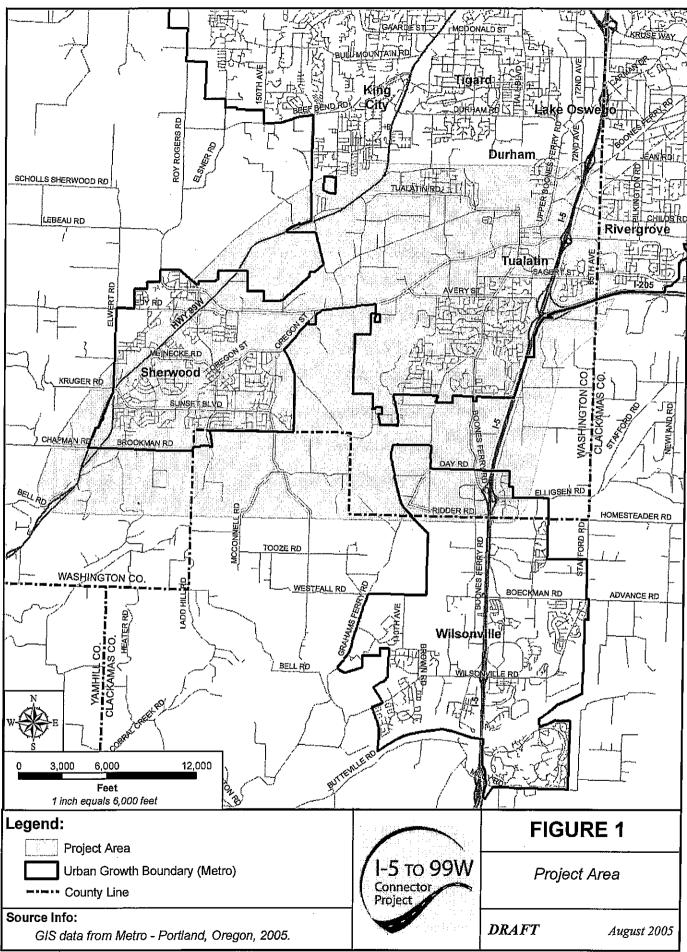
Figure 1 – Project Area

Project Process Chart (Corridor Alternatives Analysis and RTP Amendment Process)

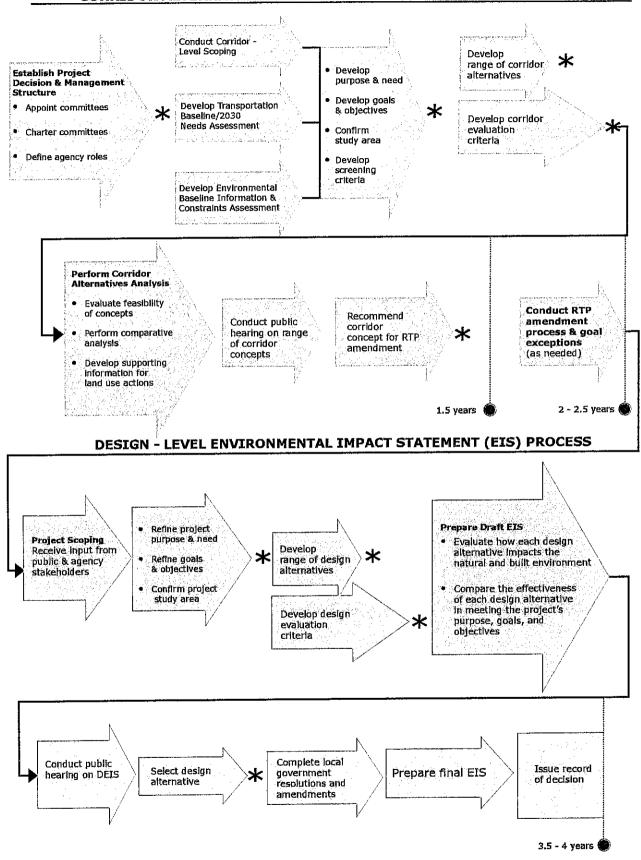
FISCAL NOTES

N/A

I:\Eng\Gus\Council Agends Summaries\9-20-05 I-5 Connector Between 99W and I-5 AlS.doc



I-5 to 99W Connector CORRIDOR ALTERNATIVES ANALYSIS AND RTP AMENDMENT PROCESS



- * Project Steering Committee (PSC) & CETAS concurrence points
- Estimated timelines are target dates for planning purposes

AGENDA ITEM#_	
FOR AGENDA OF	September 20, 2005

CITY OF TIGARD, OREGON COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Application of Public Facility Standards in Private Development and Capital
Improvement Program Projects
PREPARED BY: A.P. Duenas DEPT HEAD OK Quent CITY MGR OK
ISSUE BEFORE THE COUNCIL
This is an informational briefing to Council on the current Public Facility Standards and how they are applied to private development and City Capital Improvement Program projects.
STAFF RECOMMENDATION
The informational briefing is provided to ensure that Council is fully aware of the current standards and how they are applied through the land use application process and in the design and construction of the City's Capital Improvement Program Projects.

INFORMATION SUMMARY

The Tigard Transportation System Plan (TSP) was adopted in 2002. The various elements of the TSP were incorporated into the Community Development Code Chapter 18.810 "Street and Utility Improvement Standards." The standards established in this chapter of the Development Code provide minimum widths for street improvements depending upon the functional classification of the street and on the elements that are incorporated into the street (i.e., bike lanes, parking, etc.). The TSP developed four basic functional classes for City streets: arterials, collectors, neighborhood routes, and local streets. Minimum widths are established for each of the classifications depending upon whether or not parking is allowed or bike lanes are required. The Bicycle Master Plan in the TSP provides an overall plan for connecting bike routes throughout the City. Streets that require bike lanes upon widening to ultimate width are shown on the Bicycle Master Plan.

City staff refer to the requirements of the Development Code in the review of public improvements on private development projects. The public improvements are typically those facilities (streets, water quality, storm drainage, sanitary sewer, etc.) that would eventually be turned over to the City for maintenance after completion and acceptance. The street capital improvement projects likewise must be consistent with the requirements of the code so that public streets throughout the City have generally consistent cross-sections that are appropriate for the functional classifications of the streets.

The process to make changes to the Development Code is not an easy one, by design. This is to ensure that the standards and street cross-sections are applied consistently for each type and segment of street throughout the City. Developers planning their developments sometimes take years to get their projects to the stage where construction can begin. City street improvement projects likewise take several years from design to construction assuming

funding sources are available. Both developers and City projects need the certainty that comes with consistent standards that do not substantially change without compelling reasons for the changes.

City staff will describe how the street and utility standards are applied in the land use application process and in the design and construction of public improvement street projects. Table 18.810.1 provides the basis for establishment of street widths consistent with the functional street classifications. Sample cross-sections for each functional classification are shown in Chapter 18.810. These sample cross-sections are intended to illustrate application of the minimum widths described in Table 18.810.1. City staff will also discuss how changes to the Development Code can be made and the process necessary to effect those changes.

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

Figure 8-3 Street Functional Classification System (TSP)

Figure 6-2 Bicycle Master Plan (TSP)

Figure 8-11 Future Streets Where ROW is Planned for More Than Two Lanes (TSP)

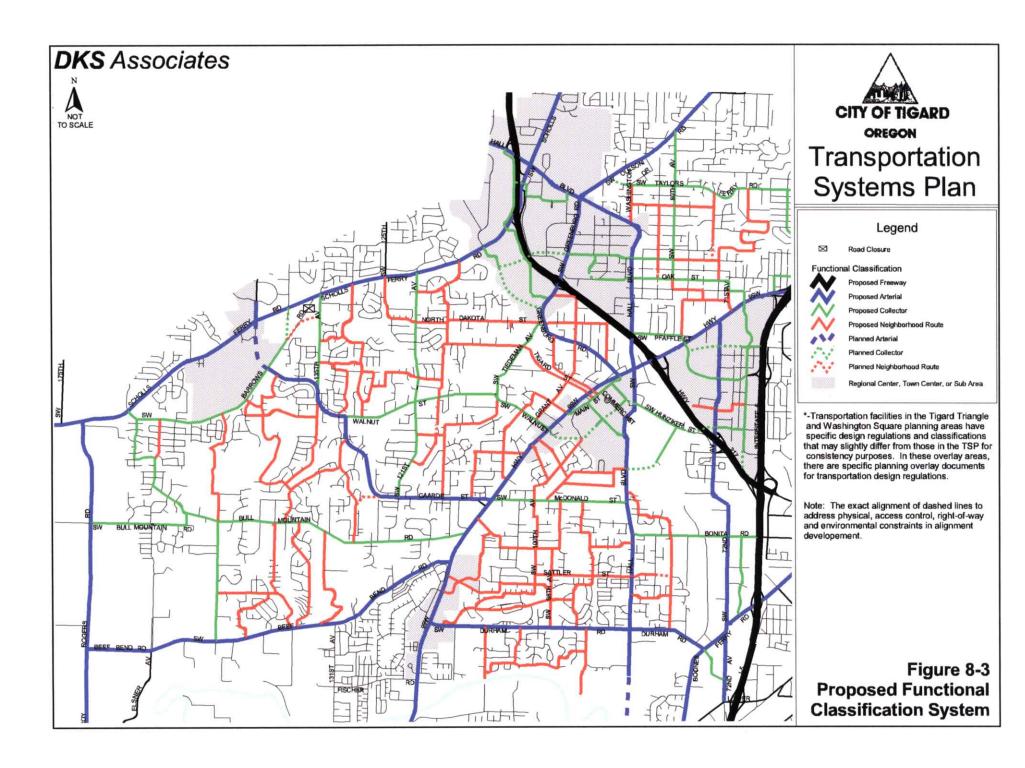
Table 18.810.1 from Chapter 18.810 (Community Development Code)

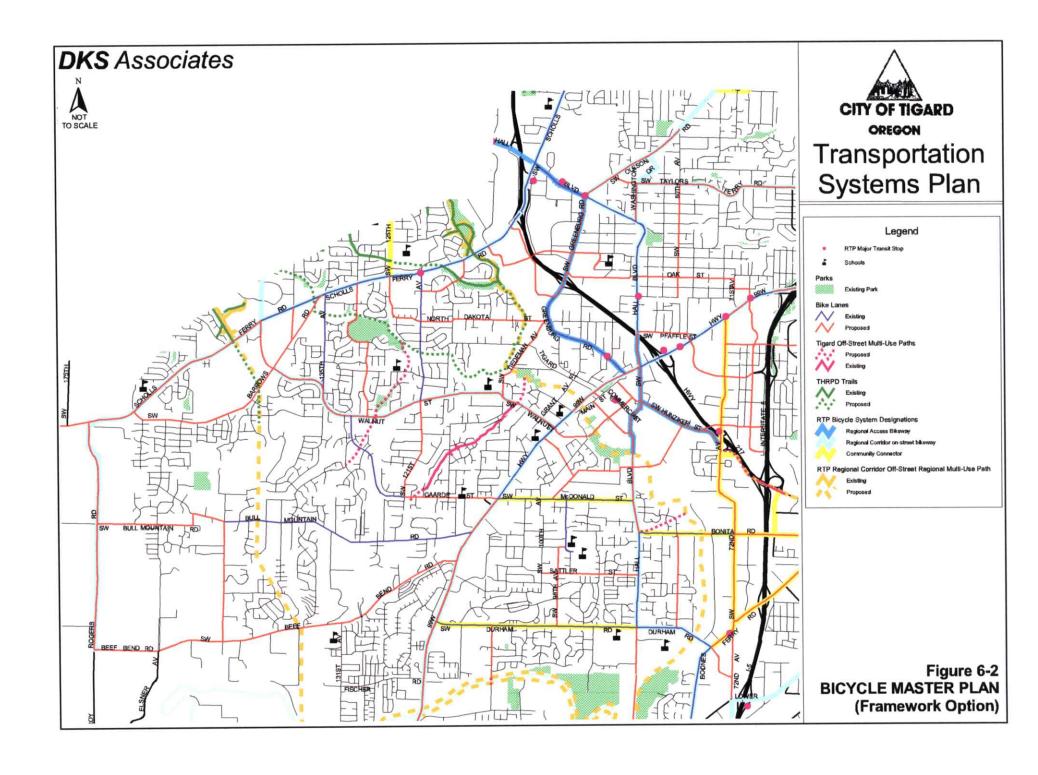
Figures 18.810.1 through 18.810.5 (Community Development Code)

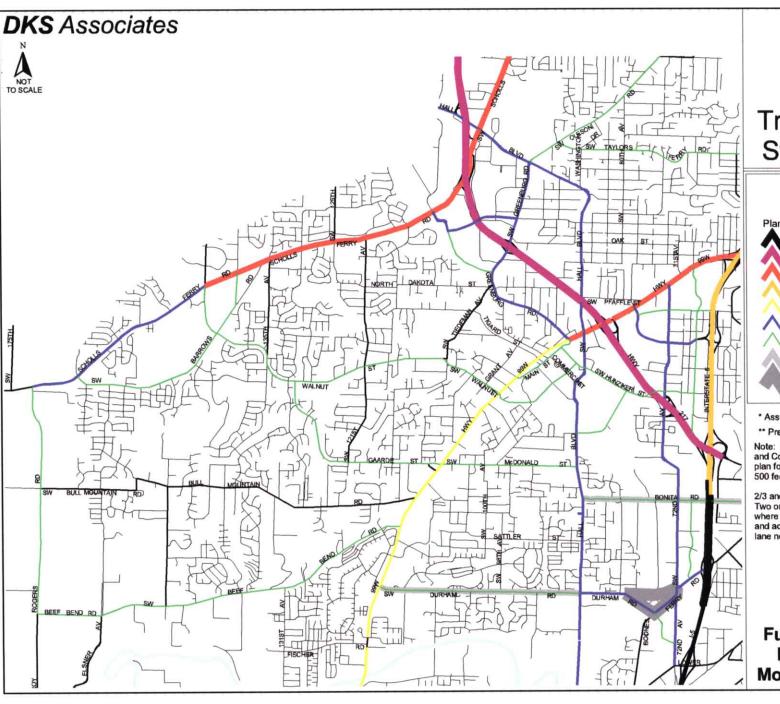
FISCAL NOTES

N/A

i:\eng\gus\council agenda summaries\9-20-05 public facility standards als.doc







CITY OF TIGARD **OREGON** Transportation Systems Plan

Legend

Planned Right of Way

8 Lanes

Added Person Capacity Corridor*

7 Lanes

6 Lanes

5 Lanes

4/5 Lanes

2/3 Lanes

Corridor Alingment Study Area

- * Assume eight lanes for setbacks
- ** Preserve ROW for 5 lanes in Future

Note: All Arterial/Arterial, Arterial/Collector and Collector/Collector intersections should plan for needed ROW for turn lanes within 500 feet of the intersection.

Two or four lanes may be used for segments where environmental constraints limit roadway and access is controlled to eliminate left turn lane need.

Figure 8-11 **Future Streets Where ROW** is Planned for **More Than Two Lanes**

Table 18.810.1 Minimum Widths for Street Characteristics

Type of Street	Right-of-Way Width (Ft)	Paved Width (Ft)	Number of Lanes	Min, Lane Width (Ft)	On-street Parking Width (Ft)	Bike Lane Width (#6)	Sidewallk Width	Landscape Strip Width (Ft) (exclusive	Median Width (Rt)
Arterial	64'-128'	Varies	2 - 7 (Refer to TSP)	12'	N/A	6' (New Streets) 5'-6' (Existing Streets)	8' (Res. & Ind. Zones) 10' (Comm. Zones)	5'	12'(1)
Collector	58'-96'	Varies	2 - 5 (Refer to TSP)	11'	N/A	6' (New Streets) 5'-6' (Existing Streets)	6' (Res. & Ind. Zones) 8' (Comm. Zones)	5'	12'(1)
Neighborhood Route	50'-58'	28'-36'	2	10'	8'	5'-6'	5'-6'(2)	5'	N/A
Local: Industrial/Commercial	50'	36'	2			N/A	5'-6'(2)	5'	N/A
Local: Residential Under 1500 ADT Under 500 ADT Under 200 ADT	54 ² /50 ³ /50 ³ /46 ³ /46 ³ /42 ³ /50	32'/28' ⁽³⁾ 28'/24' ⁽³⁾ 24'/20' ⁽³⁾	2 2 2 2		8' (both sides) 8' (one side) (No Parking)	N/A N/A N/A	5'-6'(2)	5,	N/A
Cul-de-sac bulbs in Industrial and Commercial zones	50' radius	42' radius	N/A	N/A		N/A			N/A
Cul-de-sac bulbs in Residential zones	47' radius	40' radius	N/A	N/A		N/A		N/A	N/A
Alley: Residential	16'	16'		_	N/A	N/A _	N/A	N/A	N/A
Alley: Business	20'	20'			N/A	N/A	N/A	N/A	N/A

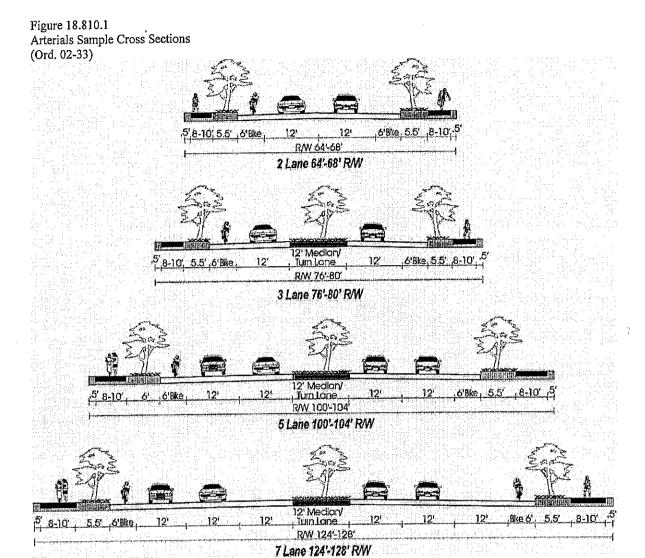
(Ord. 02-33)

Code Update: 10/02

¹ Medians required for 5 and 7 lane roadways. They are optional for 3 lane roadways.

² Sidewalk widths for these streets shall be 5 ft with landscape strip; 6 ft if against curb (if permitted in accordance with 18.810.070.C).

³ "Skinny Street" roadway widths are permitted where cross section and review criteria are met. Refer to corresponding cross sections (Figures 18.810.3, 18.810.4 and 18.810.5) for details and conditions.



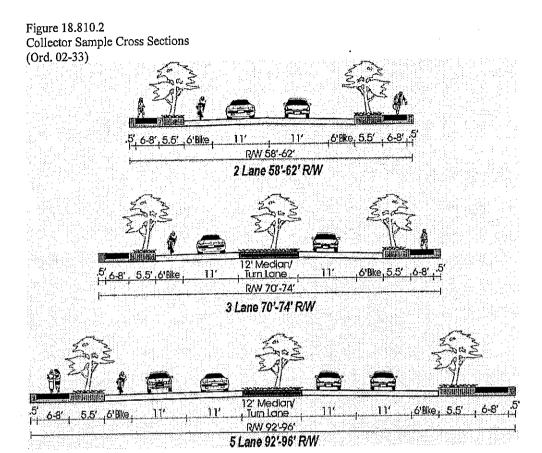


Figure 18.810.3 Neighborhood Routes Sample Cross Sections (Ord. 02-33)

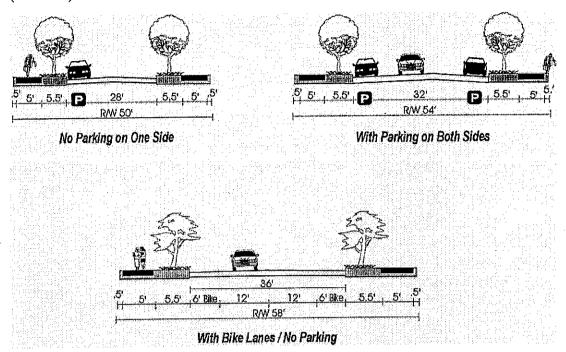


Figure 18.810.4 Local Residential Streets - <1,500 vpd (Ord. 02-33)

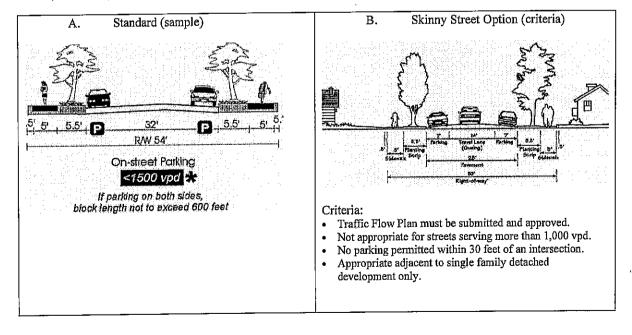


Figure 18.810.5 Local Residential Streets < 500 vpd (Ord. 02-33)

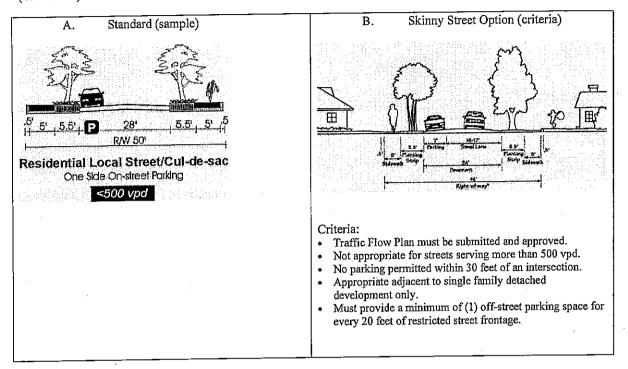
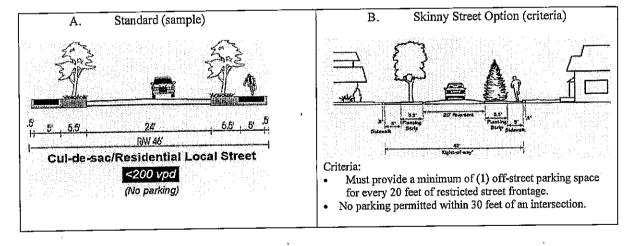


Figure 18.810.6 Local Residential Street < 200 vpd (Ord.02-33)



AGENDA ITEM#_	
FOR AGENDA OF	September 20, 2005

CITY OF TIGARD, OREGON COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Proposed 79 th Avenue Local Improvement District – Discussion of Options
PREPARED BY: A.P. Duenas DEPT HEAD OK CITY MGR OK
ISSUE BEFORE THE COUNCIL
Council discussion, input and direction to staff is requested regarding the options submitted by memorandum dated June 16, 2005 on the proposed 79 th Avenue Local Improvement District (LID).
STAFF RECOMMENDATION
That Council provide input on the options and provide direction to staff on which option, if any, to pursue.
INFORMATION SUMMARY

Council authorized the preparation of a Preliminary Engineer's Report on the proposed 79th Avenue LID (Resolution No. 05-24). Based on the current Development Code and the requirements of the Tigard Transportation System Plan (TSP), a street cross-section was selected that complies with the requirements of the Development Code and the TSP. 79th Avenue is classified as a neighborhood route and is on the Bicycle Master Plan in the TSP. New developments along the street will have interior access to the lots and will have limited access points to the street. As a result, on-street parking is not included in the street cross-section. The cross-section therefore consists of two eleven-foot travel lanes, bike lanes on each side of the street, as well as planter strips and sidewalk on both sides of the street. Attached is a drawing showing the TSP sample cross-section for a neighborhood route with bike lanes and the street cross-section developed for the street based on the sample cross-section and Table 8-810 in the Development Code.

Using the cross-section developed, a preliminary street design was developed to determine costs for improving the street from Bonita Road to Gentle Woods Drive. The preliminary project costs are relatively high. Because most of the lots in the proposed LID boundary are relatively large, the estimated assessments are likewise high. For those property owners that are not contemplating development of their lots, or for those on a fixed income, the large assessments would be a huge issue. Because of the high estimated costs and the potentially large assessments to the property owners, Council may not wish to form the LID for construction of the improvements.

A preliminary progress report was submitted to Council via memorandum dated June 16, 2005 (attached). The memorandum provided some options that may be considered for improvements to the street. The following are some options that may be considered for SW 79th Avenue:

Option 1: Continue with the LID as proposed. The preliminary assessment report submitted to Council with the memorandum provides all the relevant information for this option.

Option 2: Revise the LID boundary to full street improvements in front of the developing properties. The developer is concerned that the lack of cooperation from property owners across the street may continue to present an obstacle to the improvements. This option may be considered to ensure that the street is properly constructed with land acquisition as needed to construct proper slopes and driveway transitions to the properties on the crest of the hill. The two lots that are at the crest of the hill have both signed non-remonstrance agreements, which presumably was required when the larger property was subdivided.

Option 3: Let the developer perform full-street and three-quarter street improvements sufficient to resolve some of the vertical alignment problems on the street.

This may be the way to address some of the deficiencies in the street without going through the relatively expensive LID formation process. A proposed development has one large lot on the west side of the street and two large lots on the east side of the street. The development appears large enough to justify vertical alignment of the street along the frontage of the development. The Engineering staff has performed sufficient design work to realign the street such that it can be constructed to full-street improvements along a portion of the street and three-quarter street improvements over the rest of that frontage.

As developments proceed south towards Gentle Woods Drive, with right-of-way acquisition at key locations by the City, those developments could widen the street to at least three-quarters width or possibly full width. In addition, the two large lots northeast of the Leiser Park Subdivision adjacent to Bonita Road are undeveloped residential lots zoned R-12. The east side of 79th Avenue and the intersection of the street with Bonita Road can be addressed if those two lots come in for development. Therefore, over time, the street from Bonita Road to Gentle Woods can be significantly realigned and reconstructed to resolve the more serious issues on the north half of 79th Avenue.

The attached memorandum to Council dated August 25, 2005 provided an update report and included a strategy to address the deterioration of the street by providing, over time, a basic street section (short of the ultimate width) consisting of two travel lanes and paved shoulders. Segments of 79th can be reconstructed and widened to provide that basic section as early as FY 2006-07. Through improvements by the City and by developers as they construct their developments in the future, a basic section consisting of two travel lanes and paved shoulders can be provided over the south half of 79th Avenue, widening out to sidewalks and bike lanes on the north half as developers construct street improvements as part of their development.

A meeting with some residents of the neighborhood was held on August 29, 2005. The input from some of the citizens is as follows:

- The planter strip is unnecessary and would be an eyesore if not maintained properly. The TSP does require planter strips, and the street design developed can include the planter strips within the existing right-of-way with deviations (curb-tight sidewalk) at areas where steep slopes to existing homes require curb-tight sidewalk. Lack of maintenance wherever these planter strips are installed Citywide is a cause for concern.
- The bike lanes are not needed and should be eliminated or relocated to 74th Avenue. 79th Avenue is on the Bicycle Master Plan because it is near the midpoint between 72nd Avenue and Hall Boulevard, provides a direct connection between Bonita Road and Durham Road, provides access to and from the

residential neighborhoods, and does not need parking along the street. Bike lanes would become even more desirable as development occurs along the relatively undeveloped north half of the street. 74th Avenue serves an industrial area, is relatively close to 72nd Avenue, and parking would be needed on the west side of the street adjacent to the businesses along there. Although it does provide a direct connection between Bonita and Durham Roads, it does not connect to any residential neighborhoods.

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

- 1. Resolution No. 05-24
- 2. Memorandum to Council dated June 16, 2005
- 3. Memorandum to Council dated August 25, 2005
- 4. Street Cross-Sections (TSP Requirements, 79th Avenue design section, reduced basic section)
- 5. Figure 6-2 Bicycle Master Plan (TSP)
- 6. Table 18.810.1 from Chapter 18.810 (Community Development Code)

FISCAL NOTES

N/A

1:\Eng\Gus\Council Agenda Summaries\9-20-05 Proposed 79th Avenue LID-Discussion of Options AlS

CITY OF TIGARD, OREGON

RESOLUTION NO. 05- 24

A RESOLUTION DIRECTING THE ENGINEERING STAFF TO PREPARE A PRELIMINARY ENGINEER'S REPORT FOR THE PROPOSED SW 79TH AVENUE LOCAL IMPROVEMENT DISTRICT AND DIRECTING THE ESTABLISHMENT OF A FUNDING MECHANISM FOR THE PREPARATION OF THE REPORT.

WHEREAS, SW 79th Avenue, from SW Bonita Road to SW Durham Road, is designated as a neighborhood route in Tigard's Transportation System Plan; and

WHEREAS, a significant portion of the street is in substandard condition and requires reconstruction and vertical realignment to meet current geometric standards; and

WHEREAS, the owners of five lots along SW 79th Avenue representing forty-eight percent of the total area of the proposed local improvement district (LID), have requested that a LID be formed to improve the street to meet current standards; and

WHEREAS, the Engineering staff prepared a Preliminary Evaluation Report (attached), which was submitted to the City Council for discussion and direction during its March 8, 2005 meeting; and

WHEREAS, the Preliminary Evaluation Report determined that the proposed LID appears feasible and recommended that the City Council take the next step in the LID formation process by authorizing the preparation of a Preliminary Engineer's Report; and

WHEREAS, the Preliminary Evaluation Report recognized that there is no funding currently available to proceed with the project and recommended that the City Council direct the establishment of that funding mechanism by designating the Gas Tax Fund as the funding source; and

WHEREAS, the City Council discussed the proposed LID and indicated that the LID boundary and improvements to be constructed by the LID are satisfactory as submitted; and

WHEREAS, the City Council has directed staff to prepare a resolution authorizing preparation of a Preliminary Engineer's Report and submit that resolution for adoption at a City Council business meeting.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: The Engineering staff is directed to proceed with preparation of a Preliminary Engineer's Report for the proposed LID in accordance with the proposed LID boundary and improvements as described in Alternative 1 of the Preliminary Evaluation Report.

SECTION 2: The Preliminary Engineer's Report should include the scope of work, location of the proposed improvements, proposed district boundaries, estimated cost, proposed assessment methods, and other information that may be relevant to the feasibility of the improvements and district. The report should recommend approval, approval with conditions, or denial.

RESOLUTION NO. 05 - 24 Page 1 **SECTION 3:**

The City of Tigard shall provide the funding for preparation of the Preliminary Engineer's Report. The amount needed for FY 2004-05 to prepare the report is approximately \$60,000.

SECTION 4:

The City staff is directed to establish the funding mechanism in that amount for the engineering work using the Gas Tax as a funding source. Any budget adjustments requiring Council action and necessary for the establishment of the project funding shall be brought to Council for appropriate action.

SECTION 5:

All costs incurred after the date of this resolution to prepare the Preliminary Engineer's Report and form the district shall be included as part of the LID costs and shall be reimbursed to the City if the LID is formed and the improvements are constructed.

SECTION 6:

This resolution is effective immediately upon passage.

PASSED:

This 124 day of April 2005.

Mayor City of Tigard

ATTEST:

Greer A. Gaston, Deputy City Recorder

t/eng/greg/ild/sw 79th av/sw 79th pre report res,doc



MEMORANDUM CITY OF TIGARD

13125 SW Hall Blvd. Tigard, OR 97223 Phone 503-639-4171 Fax: 503-624-0752

TO:

Mayor and City Councilors

Craig Prosser, Interim City Manager

FROM:

Gus Duenas

City Engineer

DATE:

June 16, 2005

SUBJECT:

Progress Report on the Proposed 79th Avenue Local Improvement District

Background

Staff requested Council approval to prepare a Preliminary Engineer's Report for the proposed SW 79th Avenue Local Improvement District (LID). This request came as a result of requests from local property owners/developers who were interested in improving the street. A Preliminary Evaluation of the proposed LID was presented to Council at the March 8, 2005 meeting. The Preliminary Evaluation Report found that an LID is feasible, but that additional work was needed to establish the LID boundary and determine the level of support for the LID. Unless a developer consolidates lots sufficient to justify full street improvements, no one development can completely resolve the vertical alignment problems along that street. The lack of cooperation from those not developing was stymieing the efforts of those interested in improving the street as part of their developments. This is the primary reason the lot owners/developers approached the City regarding formation of an LID to perform the improvements.

The proposed LID presents an opportunity to comprehensively address the deficiencies of the existing street by widening it, reconstructing it to correct the severe vertical alignments problems, and by providing sidewalks and bike lanes along the street. The LID was proposed to extend from Bonita Road south to just north of Gentle Woods Drive. Council approved the next step in the LID formation process through Resolution No. 05-24 authorizing the preparation of a Preliminary Engineer's Report.

Preliminary Progress Report

Attached is a preliminary progress report prepared by the Engineering Department staff outlining the recommended LID boundary, the properties that support the LID, the properties that have signed non-remonstrance agreements when they developed, and those properties that potentially support the formation of an LID to perform the improvements. The property owners that have signed a non-remonstrance agreement against formation of an LID cannot formally remonstrate against an LID and their lots count as "yes" votes. However, this does not mean they would actually support the LID—they just cannot remonstrate against it. Council cannot proceed with the LID formation if two-thirds of the property owners by area remonstrate against the LID. It is clear that the overall percentages (46% without the potential support and 76% with all the potential support shown) show that an LID may be formed.

The City has successfully used the LID process to improve certain streets during the past 20 years. The improvements to 135th Avenue (from Walnut Street to Scholls Ferry Road) in 1987 is an example of an LID that passes through a residential area. Other LIDs include 72nd Avenue, 69th Avenue, 68th Parkway, and Sequoia Parkway, which pass through areas primarily commercial or industrial in nature.

The attached preliminary document shows the preliminary project costs, the potential credits that the City could provide to the 79th Avenue LID, the net cost that would be borne by the property owners, and the assessment breakdown for each of the properties. Contribution from the Street Maintenance Fee is shown as a potential credit primarily because the existing 79th Avenue badly needs reconstruction and maintenance. The amount shown represents what would theoretically be spent to reconstruct just the existing street without vertical realignment. However, use of those Street Maintenance Fee funds on the street improvements is probably not a wise thing to do because it is likely to create the perception that it is being used for new construction. It is really crucial for the City's credibility to ensure that those funds are used strictly for street maintenance purposes. I would therefore not factor that amount into the credits to be applied to the LID, which would raise the LID costs by that amount.

Because most of the lots are relatively large, even with all the potential credits applied, the amounts to be assessed remain quite high. For those property owners that are not contemplating development of their lots, or for those on a fixed income, the large assessments would be a huge issue.

When an LID is formed, under state law, the City is able to offer financing assistance to property owners. This assistance is in the form of assessment contracts allowing payment over time (usually 10 years) at low interest rates. Even with this assistance, large assessments could be a problem for some property owners.

We do not want to present the information developed so far to the neighborhood until Council has had an opportunity to receive this progress report and see the preliminary information that has been developed. Because the proposed assessments are certain to arouse strong opposition among certain property owners (albeit a minority of the property owners in that area), it is prudent at this time to examine alternatives to formation of the LID for construction of the improvements before the Preliminary Engineer's Report is finalized.

Options for Consideration

The preliminary work done so far indicates that an LID may be formed, but that assessments would be relatively large for certain property owners that are apparently not interested in developing at this time. We met with potential developers along that street on Thursday, June 16, 2005 to let them know of the current status of the Preliminary Engineer's Report and to discuss potential options that may be considered for the street improvements either through a revised LID boundary or without formation of the LID.

The following are some options that may be considered for SW 79th Avenue:

Option 1: Continue with the LID as proposed. The attached preliminary assessment provides all the relevant information for this option.

Option 2: Revise the LID boundary to full street improvements in front of the developing properties. The developer is concerned that the lack of cooperation from property owners across the street may continue to present an obstacle to the improvements. This option may be considered to ensure that the street is properly constructed with land acquisition as needed to construct proper slopes and driveway transitions to the properties on the crest of the hill. The two lots that are at the crest of the hill have both signed non-remonstrance agreements, which presumably was required when the larger property was subdivided.

Option 3: Let the developer perform full street and three-quarter street improvements sufficient to resolve some of the vertical alignment problems on the street.

This may be the way to address some of the deficiencies in the street without going through the relatively expensive LID formation process. A proposed development has one large lot on the west side of the street and two large lots on the east side of the street. The development appears large enough to justify vertical alignment of the street along the frontage of the development. We have performed sufficient design work to realign the street such that it can be constructed to full street improvements along a portion of the street and three-quarter street improvements over the rest of that frontage.

Although no additional right-of-way appears to be needed along this segment using the vertical and horizontal alignments we have developed, the cooperation of two property owners along the crest of the hill may be needed for proper transitions from the streets to the driveways and for the slopes to be reshaped. The new alignments match up with the existing street at a natural transition point located on the south end of the proposed development. Allowing the developer to construct the street improvements would resolve some of the more difficult vertical alignment problems. Keeping the LID formation as an option may elicit the cooperation the developer needs to complete the improvements. Proper disposal of storm drainage that could be readily resolved with the full street

improvements from Bonita to Gentle Woods may be an issue with the reduced scope. However, at this point, that issue appears to be resolvable.

As developments proceed south towards Gentle Woods Drive, with right-of-way acquisition at key locations by the City, those developments could widen the street to at least three-quarters width or possibly full width. In addition, the two large lots northeast of the Leiser Park Subdivision adjacent to Bonita Road are undeveloped residential lots zoned R-12. The east side of 79th Avenue and the intersection of the street with Bonita Road can be addressed if those two lots come in for development. Therefore, over time, the street from Bonita Road to Gentle Woods can be significantly realigned and reconstructed to resolve the more serious issues on the north half of 79th Avenue.

Council Input

Council input on the three options is needed at this point. If the preference is to move ahead with the LID as proposed (Option 1), staff will continue towards completion of the Preliminary Engineer's Report with the boundary and improvements as attached. If a reduction in scope and limits of the LID is the direction (Option 2), staff will adjust the report to limit the LID. If the preference at this point is not to form the LID (Option 3), staff will work with the potential developers to provide as much of the street improvements as can be justified with the proposed developments.

Attachment

c: Vannie Nguyen, CIP Division Manager
Marco Cabanillas, Project Engineer
Karleen Aichele, Acting Engineering Technician III

it\eng\gus\memorandums\memorandum to council-79th avenue lid.doc



MEMORANDUM CITY OF TIGARD

13125 SW Hall Blvd. Tigard, OR 97223 Phone 503-639-4171 Fax: 503-624-0752

TO:

Mayor and City Councilors

Craig Prosser, City Manager

FROM:

Gus Duenas

City Engineer

DATE:

August 25, 2005

SUBJECT:

79th Avenue Update

Because the proposed 79th Avenue Local Improvement District (LID) was a previous Fifth Tuesday issue, this memorandum is to provide you with a status update prior to the upcoming Fifth Tuesday meeting on August 30, 2005.

I had transmitted a progress report via memorandum to Council (dated June 16, 2005) on the proposed LID. The memorandum (attached) provided some options that may be considered for SW 79th Avenue. Council discussion of the options is scheduled for the workshop meeting on September 20, 2005. A discussion of the Public Facility Improvement standards required by the Development Code for private development and for the City's street projects will precede the 79th Avenue agenda item. City staff from the Engineering and Community Development Departments will be participating in that discussion. The street section that we are proposing for 79th Avenue is derived from those standards, with some deviation to provide curb-tight sidewalk in those areas where the existing homes are much higher than the street. The meandering of the sidewalk to eliminate the planter strips in those areas would allow for better driveway access (less steep slopes) to the homes from the street.

To ensure that the residents of the 79th Avenue neighborhood are aware of the current street standards, and of the various options that have been presented to Council for discussion, I have scheduled a meeting with neighborhood residents on August 29, 2005. I asked Kristin Preston to organize the meeting and she agreed. In preparation for the

meeting, I met with Kristin and went over the current standards in the Development Code, the development of the design for the street based on those standards, as well as the options that I presented to Council for discussion on September 20th. The meeting with Kristin went well. I will be going over the same material with the neighborhood residents at the meeting on August 29th. I will include the resident input in the Council agenda summary for the workshop meeting on September 20, 2005.

79th Avenue is in poor condition throughout most of the street, and some level of improvement is needed to enhance safety and provide a good riding surface. Although the street is high on our list for maintenance, the need for significant vertical realignment along several long sections on the street holds us back from scheduling that needed maintenance. We are reluctant to spend those maintenance dollars on improvements that would be eventually discarded to correct vertical alignment problems in the future.

However, like everyone else in the City, the residents along that street are contributing to the Street Maintenance Fee revenue and deserve to see some improvements on that deteriorated street. We are currently exploring the possibility of upgrading sections of 79th Avenue that do not need significant vertical realignment. The segment between Ashford Street and Durham Road looks promising for phased construction (something less than the ultimate section), and could be proposed for Fiscal Year 2006-07. We would reconstruct the two travel lanes using Street Maintenance Fee funding and add paved shoulders for pedestrians and bicyclists. The elements outside the two travel lanes (paved shoulders, drainage and grading work) would be through gas tax funding. The street section would be designed and constructed such that developers along the street would just need to extend their improvements (sidewalk, planter strip, storm drainage and additional pavement) to match the street section constructed. The street segments that need vertical realignment could be addressed in subsequent fiscal years using gas tax funding to the extent possible. Over time, through developer-initiated improvements coupled with City dollars, the street could be upgraded to provide at least two travel lanes and paved shoulders through its entire length. The areas that develop would have sidewalk and planter strips along their frontages. Other areas would just have the basic section described.

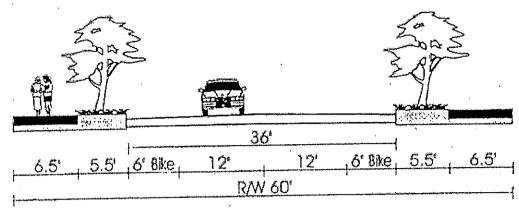
I plan to also discuss the possibility of including the upgrading of the street in future fiscal years with the residents at the meeting on August 29th. I shared our thoughts regarding those proposed improvements with Kristin. She was receptive to the idea and felt there would not be any controversy about improving the street in that manner.

Attachment

c: Vannie Nguyen, CIP Division Manager Marco Cabanillas, Project Engineer Karleen Aichele, Acting Engineering Technician III

i:\eng\gus\memorandums\memorandum to coundl-79th avenue update.doc

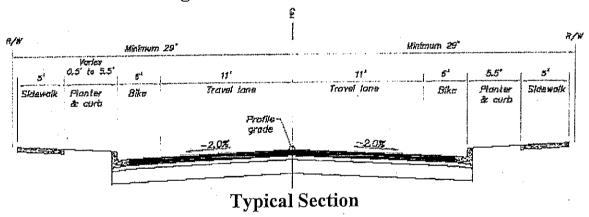
Neighborhood Route - Transportation System Plan Standard



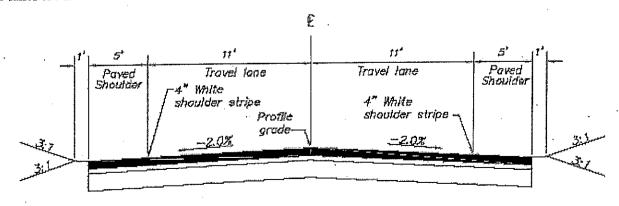
Bike lanes/No parking

Note: 79th Avenue has been reclassified by the TSP from a Minor Collector to a Neighborhood Route

Current Design - Reduced Section derived from TSP



Note: Travel lane reduced to 11 feet, bike lane maintained at 6 feet from face of curb. Gutter section reduced from typical 18 inches to 12 inches. Net bike lane outside gutter is 5 feet wide. Planter strip added in line with TSP requirement where feasible (away from the steep driveway areas). 79th Avenue is on the bike route and bike lanes are needed.



Phased Construction - Reduced Limits

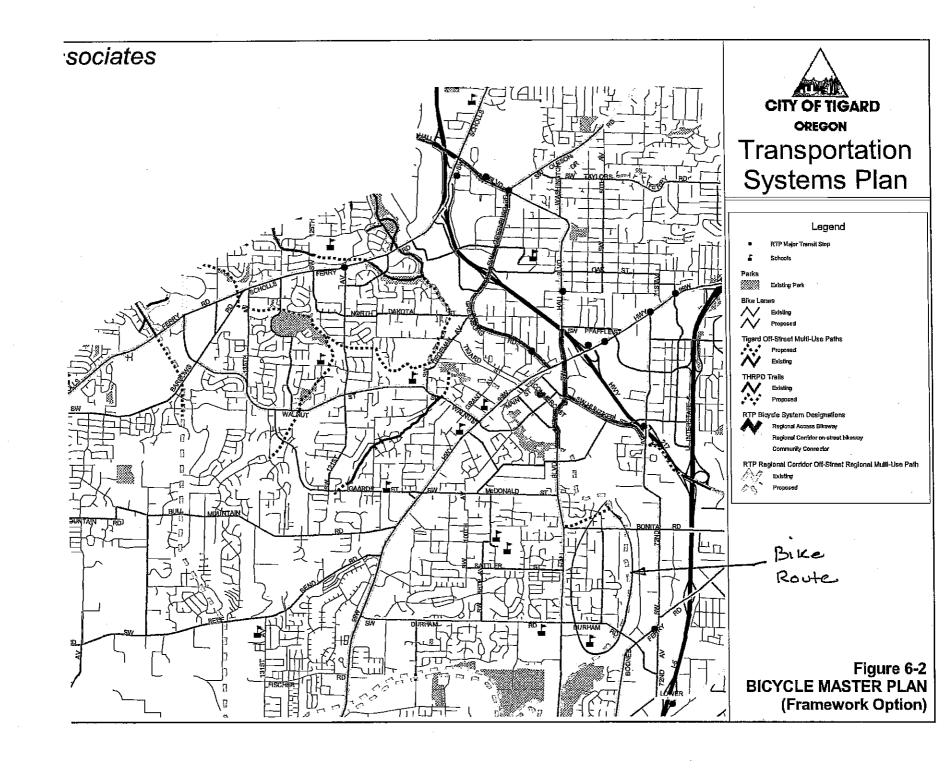


Table 18.810.1 Minimum Widths for Street Characteristics

Type of Street	Right-of-Way Width (Ft)	Paved Width (Ft)	Number of Lanes	Min. Lane Width (Ft)	On-street Parking Width (Ft)	Bike Lane Width (Ft)	Sidewalk Width (Ft)	Landscape Strip Width (Ft) (exclusive of curb)	Median Width (Ft)
Arterial	64'-128'	Varies	2 - 7 (Refer to TSP)	12'	N/A	6' (New Streets) 5'-6' (Existing Streets)	8' (Res. & Ind. Zones) 10' (Comm. Zones)	5'	12'(1)
Collector	58'-96'	Varies	2 - 5 (Refer to TSP)	11'	N/A	6' (New Streets) 5'-6' (Existing Streets)	6' (Res. & Ind. Zones) 8' (Comm. Zones)	5'	12'(1)
Neighborhood Route	50'-58'	28'-36'	2	10'	8'	5'-6'	5'-6' ⁽²⁾	5'	N/A
Local: Industrial/Commercial	50'	36'	2			N/A	5'-6'(2)	53	N/A
Local: Residential Under 1500 ADT Under 500 ADT Under 200 ADT	54'/50' ⁽³⁾ 50'/46' ⁽³⁾ 46'/42' ⁽³⁾	32'/28' ⁽³⁾ 28'/24' ⁽³⁾ 24'/20' ⁽³⁾	2 2 2		8' (both sides) 8' (one side) (No Parking)	N/A N/A N/A	5°-6' ⁽²⁾	5'	N/A
Cul-de-sac bulbs in Industrial and Commercial zones	50° radius	42' radius	N/A	N/A	(N/A			N/A
Cul-de-sac bulbs in Residential zones	47' radius	40' radius	N/A	N/A		N/A		N/A	N/A
Alley: Residential	16'	16'	-	1	N/A	N/A	N/A	N/A	N/A
Alley: Business	20'	20'			N/A	N/A	N/A	N/A	N/A

⁽Ord. 02-33)

¹ Medians required for 5 and 7 lane roadways. They are optional for 3 lane roadways.

² Sidewalk widths for these streets shall be 5 ft with landscape strip; 6 ft if against curb (if permitted in accordance with 18.810.070.C).

³ "Skinny Street" roadway widths are permitted where cross section and review criteria are met. Refer to corresponding cross sections (Figures 18.810.3,

AGENDA ITEM#_	
FOR AGENDA OF	9/20/05

CITY OF TIGARD, OREGON COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Presentation of Washington County Issue Papers on Bull Mountain
PREPARED BY: Duane Roberts DEPT HEAD OK CITY MGR OK
ISSUE BEFORE THE COUNCIL
City Staff will make a presentation on the recently released series of seven County Issue Papers dealing with Bull Mountain park and planning-related issues.
STAFF RECOMMENDATION
Receive information on the Bull Mountain Issue Papers, discuss, and provide direction to staff on comments and feedback to carry to Washington County.
INFORMATION SUMMARY

In total, seven Bull Mountain Issue Papers were prepared by County staff and presented to the Board of County Commissioners at a workshop. These papers were prepared in response to a series of issues raised by CPO 4B and area residents. The County Commission is scheduled to hear public comments and take action on the Issue Papers on September 27, 2005.

Issue Paper #14 responds to a resolution adopted by CPO 4B requesting the County to implement a Public Facilities Strategy (PFS) to address growth in unincorporated Bull Mountain, as well as consideration of a development moratorium. County staff has concluded that neither the PFS nor the moratorium would comply with State statutes.

Issue Papers #15 and #16 address the issue of park planning and funding of the same for unincorporated Bull Mountain. In Issue Paper #15, County staff is recommending that park planning continue to be conducted by the City of Tigard. Issue Paper #16, while not making specific recommendations, identifies that a park local improvement district is an option for citizens to consider.

Issue Paper #17 evaluates decreasing development densities in unincorporated Bull Mountain. The paper concludes that the County does not have an alternative to lower densities for the area by shifting the density to other unincorporated urbanized areas within the County. The best alternative to address this issue is for the planning of unincorporated Bull Mountain and Urban Growth Boundary Expansion Areas 63 and 64 to be conducted by the City of Tigard as part of the Comprehensive Plan Update. Densities could be considered as part of that process.

Issue Papers #18 and #21 address updating the Bull Mountain Community Plan and the planning for Areas 63 and 64. County staff is recommending, at the City's request, that unincorporated Bull Mountain and Areas 63 and 64 be included in the City's update of its Comprehensive Plan. County participation would occur throughout the planning process.

Issue Paper #22 addresses the need to update the Washington County-Tigard Urban Service Agreement to assign Tigard planning responsibilities for unincorporated Bull Mountain and Areas 63 and 64. County staff is recommending that an Intergovernmental Agreement (IGA) be executed assigning this responsibility.

At the County's August 23, 2005 Board of Commissioner's meeting, County Administrator Charlie Cameron recommended that the County retain responsibility for planning UGB expansion Areas 64 and 64. This recommendation is not consistent with the recommendation of several of these issue papers. It is not yet known what implications this latest recommendation will have on final approval of the County issue papers.

	OTHER ALTERNATIVES CONSIDERED	
N/A		
IV/A		
	VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY	
N/A		
<u>.</u>	ATTACHMENT LIST	
Attachment	: County Issue Papers	
	DISCAL NOTES	

N/A - This is an information only item.



WASHINGTON COUNTY OREGON

July 20, 2005

REC'D JUL 2 2 2005

To:

Washington County Planning Commission, Land Use Ordinance Advisory

Commission, Community Participation Organizations, and Committee for Citizen

Involvement; City of Tigard; City of King City; and other Interested Parties

From:

Brent Curtis, Planning Manager

Subject:

Revised Meeting Date to Consider the Draft Issue Papers about Planning and

Park Issues in the Bull Mt. Area

In response to a request by CPO 4B, the Washington County Board of Commissioners (Board) decided it will consider and take public comments about the draft Bull Mt. issue papers on **September 27, 2005** rather than August 16th. The CPO asked for the extension to provide the CPO with additional time to review and comment on the issue papers.

The meeting will be held in the auditorium of the Public Services Building located at 155 N. 1st Avenue, Hillsboro, Oregon. The meeting begins at 6:30 p.m.

Comments about the issue papers may be provided at the September 27th meeting in writing or in person. Written comments received by the Planning Division on or before **September 15**, **2005** will be provided to the Board in advance of the meeting. Written comments must be mailed or faxed to the Planning Division at the address or phone number shown below. At this time, we are unable to accept e-mail comments.

The issue papers are also located on the Planning Division's web page under "2005 Work Program." The web page address is:

http://www.co.washington.or.us/deptmts/lut/planning/docs/WorkPgm.htm

If you have any questions about the issue papers, or if you would like additional information, please contact the following Planning Division staff:

•	Issue Paper 14:	Aisha Willits	503-846-3961
•	Issue Papers 15 and 16:	Suzanne Savin	503-846-3966
•	Issue Papers 17, 18, 21 and 22:	Joanne Rice or Linda Schroeder	503-846-3965

c. Phil DeckerLisa Hamilton-Treick



WASHINGTON COUNTY OREGON

June 28, 2005

DRAFT PLANNING DIVISION ISSUE PAPER NO. 14

Response to Citizen Participation Organization 4B's Resolution No. 04-05

Issue

On October 26, 2004, Citizen Participation Organization (CPO) 4B provided the Board of County Commissioners with Resolution 04-05. The resolution, adopted by CPO 4B on September 2, 2004, urged the Board to implement a Public Facilities Strategy to address several issues related to growth in the unincorporated urban area of Bull Mountain. This issue paper addresses the concerns raised by CPO 4B, as well as a discussion of development moratoria. This issue paper also responds to questions regarding the creation of a refinement plan as proposed by Richard Franzke in his letters dated March 17 and April 7, 2005.

County staff was asked to respond to the fundamental feasibility of using a Public Facilities Strategy, a development moratorium, or a refinement plan to address the CPO's and citizen's concerns in the Bull Mountain area. The intent of each tool is described below. A general discussion of the statutory provisions governing Public Facilities Strategies and development moratoria is in a separate memorandum (incorporated as Attachment A) provided by County Counsel staff. Refinement plan provisions are addressed in Attachment B.

Issues related to developing a park master plan, decreasing existing densities, planning for new urban growth boundary lands, and updating the Bull Mountain Community Plan are addressed in additional issue papers.

Recommendation

Based on the statutory provisions described in Attachments A and B, relevant comprehensive plans, public facilities plans, and current available information, the Planning Division concludes that a Public Facilities Strategy or a development moratorium for the Bull Mountain area would not comply with the statute. Therefore, staff recommends that no further analyses of those requests occur. Staff also recommends that a refinement plan not be created for the Bull Mountain area, as discussed below in the "Refinement Plan" section of this issue paper. The Planning Division recommends continued discussions between Washington County and the City of Tigard to address planning issues in the unincorporated urban area of Bull Mountain.

Background

CPO 4B's request for a Public Facilities Strategy (PFS), moratorium or refinement plan relates to six specific concerns:

- 1) high density housing construction on Bull Mountain is contrary to the Bull Mountain Community Plan;
- 2) inconsistencies between the Tigard Community Development Code (CDC) and the Bull Mountain Community Plan;

- 3) transportation facilities in the Tigard area are inadequate to support growth on Bull Mountain;
- 4) unresolved water supply issues;
- 5) inadequate park and open space planning; and
- 6) overcrowded schools.

Analysis

Implementing a Public Facilities Strategy

Oregon Revised Statute 197.768 describes the process for implementing a Public Facilities Strategy (PFS). After providing 45-day notice to the Department of Land Conservation and Development, the County would have to hold a hearing and make findings to justify the PFS. The key findings that must be demonstrated are as follows:

- ORS 197.768 (4)(a) There is a rapid increase in the rate or intensity of land development in a specific geographic area that was *unanticipated at* the time the original planning for that area was adopted or there has been a natural disaster or other catastrophic event in a specific geographic area (emphasis added), and
 - (4)(b) The total land development expected within the specific geographic area will exceed the planned or existing capacity of public facilities.

ORS 197.768(4)(b)

ORS 197.768(4)(b), which refers to land development expected to exceed the planned or existing capacity of public facilities is critical for justifying a PFS. The overall intent of a PFS is to slow development in an area where public facilities are not sufficient to meet the demand for development. As noted in the legal opinion provided in Attachment A to this issue paper, public facilities include water, sewer, and transportation facilities.

The county's growth management strategy requires that necessary public facilities and services be required before development can occur. The strategy classifies services into three categories: critical, essential, and desirable. Water and sewer are considered critical services and must be available to serve the proposed development. Applicants for development approval are required to submit service provider letters from water and sewer providers to indicate whether a subject property can be sufficiently served by the respective provider. Parks are designated as a desirable service. Consequently, they are not a required service that must be in place before development can occur. This policy and its implementing requirements have been in place since the time the community plan was adopted.

Based on the information above, and as described in more detail in subsequent sections of this issue paper, transportation and water issues on Bull Mountain do not meet the criteria for the institution of a PFS.

ORS 197.768(4)(a)

ORS 197.768(4)(a) would allow a PFS in areas where public facilities are not available to serve an area that was being developed at a rate or intensity unanticipated at the time of original planning. The intensity and rate of development of land on Bull Mountain is specifically discussed below.

Intensity

The intensity of development on Bull Mountain was prescribed through the adoption of the county's new Comprehensive Plan, which included the 1983 Bull Mountain Community Plan. The plan illustrated the level of development and the eventual density of the area expected by the year 2000 through the eventual build-out of R-6 district lands (six units per acre). As described in more detail in Issue Paper 17, development in the Bull Mountain area is reviewed by the City of Tigard. Under Tigard's R-7 District, the actual density that has been approved since 2002 is 4.8 dwellings per acre. The 4.8 dwellings per acre under Tigard's standards is slightly less than the minimum number of dwellings required under the county's R-6 plan designation. The intensity of development now occurring on Bull Mountain is similar to what was described in the Bull Mountain Community Plan, and therefore does not warrant a PFS.

Rate

The Bull Mountain Community Plan identified the pattern for growth in the Bull Mountain area. The Bull Mountain area was added to the urban growth boundary to serve housing needs to the year 2000. At the time, county planners anticipated that the land would be developed at a rate driven by market forces. The rate of development of land on Bull Mountain was not unanticipated at the time of original planning and therefore does not warrant a PFS.

Based on an analysis of ORS 197.768(4)(a) and (b), the rate and intensity of development on Bull Mountain was not unanticipated during the development of the long-range plans for the area and sufficient water and sewer service is available to support new development. Therefore, conditions in the Bull Mountain area do not meet the criteria for the institution of a PFS.

Described below are the CPO's specific concerns in the Bull Mountain area and how each growth management tool relates to the specific issue.

High Density Construction on Bull Mountain

CPO 4B is concerned about the density of housing currently being built on Bull Mountain. As mentioned above, the intensity of development in the Bull Mountain area was originally determined in the early 1980s through the adoption of the Bull Mountain Community Plan. The Bull Mountain Community Plan assumed the Bull Mountain area would be built out by the year 2000 at the densities of the adopted land use districts, primarily R-6 with a density of six units per acre. Therefore, the intensity of development on Bull Mountain was not unanticipated at the time of planning, and does not warrant a PFS. Additionally, the county's growth management strategy requires critical public services and facilities to be provided before development can occur (sewer, water, fire and roads). This policy and its implementing requirements have been in place since the time the plan was adopted.

Potential Inconsistencies Between the Community Development Code and the Community Plan CPO 4B identified inconsistencies between the community plan and Tigard's CDC with regard to tree preservation and removal. The CPO pointed out that the community plan considers mature trees to be all those over six inches in diameter. Within the Summit and Slopes subarea, the plan directs that no more than 50% of the mature trees may be removed from a parcel at the time of development. The CPO states that the City of Tigard's Community Development Code identifies specific regulations for removal of only those trees over 12 inches in diameter. Issue Paper 18 includes a description of the current standards applicable for tree removal in the urban unincorporated Bull Mountain area, including areas designated as a Significant Natural Resource by the community plan. Currently, the county is not aware of any development that does not comply with those standards. However, inconsistencies in the implementation of tree removal standards do not meet the criteria for a PFS. County staff and City of Tigard staff have indicated a desire to resolve planning issues within the Bull Mountain area. Inconsistencies in applying the applicable development standards would be more appropriately addressed during those discussions.

Transportation

CPO 4B states that transportation planning on Bull Mountain is inadequate and that new roads are constructed for the benefit of a particular development, rather than to serve local connectivity needs in the area. Local connectivity needs are prescribed in the Bull Mountain Community Plan, which identifies areas on Bull Mountain where connections will be required through the land development process. The community plan, adopted in 1983, outlined the development pattern for Bull Mountain and was the product of intense public involvement. Transportation issues on Bull Mountain were given additional scrutiny through the development of the 1988 Transportation Plan, and again in 2002 prior to the adoption of the 2020 Transportation Plan. The Washington County 2020 Transportation Plan identifies proposed arterial and collector roadways. New local road construction standards are identified within the Washington County Uniform Road Improvement Design Standards.

An analysis of the most recent traffic counts for Bull Mountain and Beef Bend Roads indicate that both roads exhibit acceptable trip levels for their functional classification. Daily trips on Bull Mountain, a collector roadway, total approximately 4,600. Average daily trips on collectors range between 2,000 and 10,000 trips. Beef Bend Road accommodates approximately 4,000 trips. As an arterial roadway, Beef Bend is intended to accommodate 10,000 to 40,000 trips per day. Based on these numbers, the traffic that is occurring on Bull Mountain currently is well within the expected trip rates for arterial and collector roadways.

The Washington County 2020 Transportation Plan also identifies Highway 99W and the easterly portion of the Bull Mountain area between Scholls Ferry Road and Highway 99W as "deficiency areas". Deficiency areas are roadways or geographic areas that are expected to exceed acceptable performance measures by 2020 even with planned improvements. A summary of the deficiencies and their applicability to a PFS are described below.

1. Walnut and Gaarde Streets, between Barrows Road and Highway 99W

An east/west capacity deficiency has been identified for this area, which is mostly in the City of Tigard. The deficiency is primarily along Walnut and Gaarde Streets. Due to existing development along these roads and the lack of vacant land in the area to provide a new east/west route, the Transportation Plan finds that there are no easy solutions to resolve this problem. The urban unincorporated areas of Bull Mountain are largely located outside of this deficiency area and Bull Mountain and Beef Bend Roads serve as the east/west circulation routes for those areas. Consequently, the Planning Division concludes that a PFS for the westerly and southerly portions of the Bull Mountain planning area is not an acceptable method to resolve this particular deficiency.

2. Highway 99W, between I-5 and Durham Road

No solutions to the congestion along this section of the highway have been identified due to development patterns in the area and the use of Highway 99W for trips to local businesses and for through trips to areas beyond this section of the highway. This area, which has been studied extensively, is identified as an Area of Special Concern in Metro's Regional Transportation Plan. Some minor improvements along the highway are likely to be made in the future but there are no planned improvements that will solve the congestion on the highway. Due to the lack of solutions to resolve the congestion, staff does not believe a PFS can be used because there are no short term solutions to resolve the problem. Staff notes that any effort to establish a PFS for Highway 99W requires the cooperation and coordination of the Oregon Department of Transportation, which is responsible for this highway. Staff believes the cities of Durham, King City, Sherwood, Tigard, and Tualatin would also have to participate in a PFS due to businesses and residents in their jurisdictions using Highway 99W.

In its Cityscape Newsletter (March/April 2005 edition), the City of Tigard lists improvement of Highway 99W as a City Council goal for 2005. Tigard intends to identify projects to relieve congestion along Highway 99W, prioritize projects and funding, and to leverage additional funding to meet this goal.

Given the fact that recent transportation planning efforts by Metro, the Oregon Department of Transportation, Washington County and cities along Highway 99W have identified and acknowledged these deficiencies and that solutions are long-term in nature, staff believes it would be difficult to justify a PFS based on transportation concerns.

Water Supply

The resolution forwarded by CPO 4B indicated a concern about "viable, long-term and affordable" water sources. Specifically, the concern about a water source was related to the increased growth in the Bull Mountain area, potentially worsening the water supply. County staff spoke with Rich Sattler with the Tigard Water District regarding the water supply issues mentioned by CPO 4B and was assured that there is no current shortage of water. Mr. Sattler indicated that though a lack of infrastructure in the Bull Mountain area could pose a challenge, most of such infrastructure is constructed through the development process.

In addition, state law does not allow the implementation of a public facilities plan for issues such as water supply without, at a minimum, coordination with the water provider. Given that the Tigard Water District has not identified a problem with their water supply, it is unlikely the agency would undertake a PFS planning process.

Parks and Open Space Planning

In their resolution, CPO 4B indicated that a lack of parks planning and increased development on Bull Mountain is eliminating available land for parks and open space. Last year, county staff began developing a system development charge (SDC) to provide funding for interim park and recreation capital improvements to serve the unincorporated properties on Bull Mountain. The county SDC would serve as a funding bridge until the properties annexed to Tigard. The Tigard Urban Service Agreement designated Tigard as the long term park and recreation provider to the Bull Mountain area.

At their March 1 work session, the Board of County Commissioners said it wanted to continue the public hearing on the Bull Mountain SDC for 120 days to await the outcome of discussions with the City of Tigard about planning issues in the Bull Mountain area. This discussion would include both areas inside and outside of Tigard's city limits.

It appears that a PFS isn't allowed to be adopted for parks planning. Although the definition of "public facilities" is not provided for under the provisions governing a PFS, the statutory provisions relating to public facilities planning define this term as including only water, sewer and transportation. Additionally, the county's growth management strategy identifies parks as a desirable service, which are therefore not required as a condition of development. The county is not a provider of park facilities or services, which is a municipal service more appropriately offered by cities or special service districts.

School Overcrowding

CPO 4B's resolution stated that all of the schools that serve Bull Mountain are currently at or above capacity. The resolution further states that construction of Alberta Rider Elementary has been delayed due to land use disputes, which exacerbated the school capacity issues on Bull Mountain. The CPO has requested that the City of Tigard and Washington County develop a solution for the problem, as the continuing issuance of building permits is creating more overcrowding in area schools. The county's response to the school capacity issue is limited by Oregon Revised Statute 195.110(11), which states that school capacity shall not be the sole basis of approval or denial of a residential development application. In addition, school capacity issues do not fall under the definition of public facilities, so a PFS cannot be justified on these grounds.

Development Moratorium

Attachment A to this issue paper discusses two types of development moratoriums that may be used to halt or slow development: the public facilities moratorium and the compelling need moratorium. The public facilities moratorium may be applied in specific geographic areas where public facilities are currently operating beyond capacity. The compelling need moratorium may be utilized when existing standards and regulations are inadequate to prevent irrevocable public harm in affected geographic areas. Both moratoria require public notice and a hearing. A public

facilities moratorium must be followed up with a corrective action plan within 60 days of the moratorium's adoption. A legal analysis of both moratoria is provided in Attachment A to this issue paper.

High Density Construction on Bull Mountain

As mentioned on page 3, the current rate and intensity of development on Bull Mountain is not inconsistent with the level of development intended for the area as shown in the Bull Mountain Community Plan. The densities on Bull Mountain were intended to serve residential growth through the year 2000 and assumed a build out to existing densities, typically six units per acre in the R-6 district which covers most of the Bull Mountain area. Services such as water, sewer, and roads are intended to be provided through the development of land in the area, in keeping with the county's policy and strategies for growth management. Therefore, the planned development of Bull Mountain does not warrant either a public facilities or compelling need moratorium.

Potential Inconsistencies Between the Community Development Code and the Community Plan Potential inconsistencies regarding the implementation of applicable tree removal standards are not grounds for either type of development moratorium. Public facilities moratoriums are limited to situations in which public facilities such as transportation, sewer, and water are operating beyond capacity, or when existing regulations cannot prevent a public harm. Discussions between county staff and City of Tigard staff provide a more appropriate option for resolving any inconsistencies.

Transportation

CPO 4B indicates that roadways within the Bull Mountain area are currently operating beyond capacity. The county, City of Tigard, and the Oregon Department of Transportation agree that Highway 99W is a deficiency area for which a solution has yet to be determined. Either type of moratorium would require that a corrective action plan be developed within 60 days following the institution of a moratorium. The three agencies listed above have studied Highway 99W and have been unable to develop plans or projects to mitigate the area's congestion or circulation problems.

Metro's Regional Transportation Plan, the Washington County 2020 Transportation and recent changes to the 1999 Oregon Highway Plan all indicate that a solution has yet to be determined for the Highway 99W corridor. The Oregon Highway Plan states that Highway 99W has "physical, environmental, or other constraints that limit the range of acceptable transportation solutions". According to county transportation planners, circulation on roads within the vicinity of Highway 99W should be developed in addition to capacity improvements on the highway. If the highway were to be improved to accommodate greater capacity, new highway lanes would fill up if the adjacent street improvements were not also made.

Water Supply

Uncertainty regarding future water supplies may merit a public facilities moratorium. However, the City of Tigard's water department does not indicate that Tigard's water source is threatened or unable to serve current or future residents in and around the City of Tigard. Therefore, it is unlikely that a moratorium could be instituted based on a lack of water supplies.

Parks and Open Space Planning

As noted in the legal opinion provided by County Counsel staff, a public facilities moratorium may not be granted for parks planning. A compelling need moratorium for parks could not be instituted based on the county's current hierarchy of services. Oregon's Statewide Planning Program does not require local governments to have an adopted parks plan. Additionally, the county's growth management policy stratifies public facilities and services into three categories: critical, essential, and desirable. Parks are classified as a desirable service and are therefore not required to be provided through the land development process.

School Overcrowding

As discussed above under the "Implementing a Public Facilities Strategy" section, the county's response to the school capacity issue is limited by Oregon Revised Statute 195.110(11), which states that school capacity shall not be the sole basis of approval or denial of a residential development application. The County Counsel opinion (Attachment A to this issue paper) also states that ORS 195.111(8)-(9) does not allow a local government to adopt a moratorium based on deficiencies in the school system.

Refinement Plan

The process for adoption of a refinement plan is described in Oregon Revised Statute, Chapter 197.200. A refinement plan is more detailed than a community plan and is only applicable in the urban area. A refinement plan establishes minimum and maximum density ranges, floor area ratios, and includes land use regulations to implement the plan. Within areas subject to a refinement plan, most development applications are required to use the procedures for expedited land divisions in ORS 197.360 to 197.380. Due to the detailed nature of a refinement plan, the review procedures for new development limit citizen participation and require a decision to be made within 63 days rather than 120 days.

A refinement plan is not a development moratorium; it is another planning tool available to counties and cities to adopt land use regulations and an expedited review process for a defined urban area. It is not similar to a PFS or a development moratorium, tools to be used to remedy a very specific deficiency for transportation, sewer, or water service. Consequently, staff does not believe a refinement plan would suitably address the concerns of CPO 4B and Mr. Franzke. A refinement plan's effects on each of the issues identified by the CPO and Mr. Franzke are described below.

High Density Construction on Bull Mountain

A refinement plan is not intended to slow or stop growth in the manner that a Public Facilities Strategy or moratorium would allow. Refinement plans are a comprehensive plan element similar to a community plan, but with far greater detail. Rather than curb development within a specific geographic area, a refinement plan allows for detailed planning at the beginning of a project in exchange for an expedited land use review process. An expedited land use review would require a much lower level of involvement from the community and is therefore unlikely to address the concerns voiced by the CPO and Mr. Franzke.

Potential Inconsistencies Between the Community Development Code and the Community Plan As mentioned in the discussion above in the "Implementing a Public Facilities Strategy" and "Development Moratorium" sections, if there are inconsistencies regarding the implementation of applicable tree removal standards, they may be resolved through communication between the two agencies. Both agencies have indicated an interest in resolving any inconsistencies in the interpretation and implementation of county and city standards. A refinement plan is intended to provide a detailed plan for a specific area, and would not provide the best approach for addressing the various inconsistencies between the city's Code and the Bull Mountain Community Plan.

Transportation

Transportation issues on arterials and collectors in the Bull Mountain area are unlikely to be sufficiently addressed by a refinement plan. A refinement plan relates to a specific area of development and defines the eventual density ranges, floor area ratios, and land use regulations applicable to the development. At most, a refinement plan may indicate the location of proposed local roadways within a specific development.

Water Supply

Refinement plans do not apply to or address water supply issues.

Parks and Open Space Planning

Refinement plans may include areas intended for park or open space land in conjunction with the development of a specific geographic area. A refinement plan would not institute a moratorium on development in order to allow for the purchase of park land, and therefore would not address the concerns regarding a dwindling land supply for parks as described by the CPO.

School Overcrowding

Refinement plans do not apply to or address school overcrowding issues.

wpshare\2005ord\work program\issue papers\Bull Mt\IP 14\IP14_Moratorium_Final_Draft_062805



Washington County

Inter-Department Correspondence

DATE:

March 1, 2005

TO:

Chair Brian and Members of the Board

FROM:

Chris Gilmore, Assistant County Counsel

SUBJECT:

Bull Mountain Moratorium

In response to the request by CPO 4B the following memorandum is a general discussion of the statutory provisions governing moratoria and a public facilities strategy.

SHORT ANSWER: There are three mechanisms permitted by state law to halt or slow development that is otherwise permitted under the comprehensive plan and development code: a "public facilities strategy", a public facilities moratorium or a compelling need moratorium. They are limited to issues involving transportation, sewer and water facilities. (i.e. not schools, parks). Each requires specific findings, including that the rate or intensity was not anticipated at the time the original plan was adopted. Finally, it should be noted that it is likely that persons owning property prior to imposition of a moratorium would be eligible to file Measure 37 claims.

A. BACKGROUND INFORMATION.

As you may recall CPO 4B submitted materials to the Board discussing the adequacy of public services in the Bull Mountain area. See Letter from Julie Russell to the Board of Commissioners dated October 26, 2004 with attachments. CPO 4B requests this Board implement a public facilities strategy or perhaps a moratorium, apparently to a reduce, slow or prohibit development for some period of time.

Included with the proposed resolution are a number of documents discussing the adequacy of public services. In addition to concerns regarding the capacity of school system and the availability of a long-term water source, the materials also raise concerns regarding the adequacy of existing transportation facilities, in particular the intersection of Highway 99W and Beef Bend Road as well as Highway 99W and Bull Mountain Road. The resolution identifies a need for additional planning and identifying inadequacies with regard to water, schools, parks and transportation.

Nothing in the materials actually proposes a Public Facilities Strategy or addresses the standards for adopting the same as provided under ORS 197.768.

B. APPLICABLE LAW.

There are three basic tools that empower local government to limit or stop the issuance of development permits while catching up with development by enacting new regulations or construction new public facilities: (1) public facilities strategy, (2) moratorium based on a shortage of public facilities, and (3) moratorium based on a compelling need.

1. Public Facilities Strategy.

Implementing a public facilities strategy under ORS 197.768 to manage growth is a relatively new concept. The legislature first adopted these statutory provisions in 1995. A public facilities strategy is somewhat more flexible than a moratorium both in terms of adopting and implementing an overall plan. There are no cases to date concerning adoption of a public facilities strategy.

Under ORS 197.768(4), in adopting a public facilities strategy the county must demonstrate the following:

- "(a) There is a rapid increase in the rate or intensity of land development in a specific geographic area that was unanticipated at the time the original planning for that area was adopted or there has been a natural disaster or other catastrophic event in a specific geographic area;
- (b) The total land development expected within the specific geographic area will exceed the planned or existing capacity of public facilities; and
- (c) The public facilities strategy is structured to ensure that the necessary supply of housing and commercial and industrial facilities that will be impacted within the relevant geographic area is not unreasonably restricted by the adoption of the public facilities strategy."

These findings must be adopted at a public hearing after providing notice to the state consistent with ORS 197.768(3).

If these findings are made, the Public Facilities Strategy must include a clear, objective and detailed plan for controlling the timing and sequence of development approvals to accommodate the identified capacity problems. ORS 197.768(5). This is effective for up to 24 months, but may be extended in one year increments up to three times.

Although there are no specific requirements regarding the contents of an overall plan, the statutes contemplate that a public facilities strategy will resolve the existing capacity problems within the two-year period. ORS 197.768(6).

In summary creating a Public Facilities Strategy has at least three components: (1) adoption of a final order including findings consistent with ORS 197.768(4)(a)-(c), (2) adoption of a Public Facilities Strategy for resolving identified deficiencies within a two-year time frame, and (3) a clear, objective, and detailed plan for issuing permits.

2. Moratorium Based on Shortage of Public Facilities.

A moratorium based on a shortage of public facilities is provided for under ORS 197.520(2). This type of moratorium is limited to areas that are within an urban growth boundary.

To create this type of moratorium the local government must adopt findings addressing:

- "(a) Showing the extent of need beyond the estimated capacity of existing public facilities expected to result from new land development, including identification of any public facilities currently operating beyond capacity, and the portion of such capacity already committed to development;
- (b) That the moratorium is reasonably limited to those areas of the city, county or special district where a shortage of key public facilities would otherwise occur; and
- (c) That the housing and economic development needs of the area affected have been accommodated as much as possible in any program for allocating any remaining public facility capacity."

It may be adopted only after providing notice and conducting a public hearing as provided under ORS 197.520(1).

Unlike a Public Facilities Strategy this type of moratorium must also adopt a correction program within sixty (60) days from the date the moratorium is adopted. ORS 197.530. The correction program must set out a plan for resolving the identified deficiencies within six (6) months.

A local government may not adopt a moratorium based on deficiencies in the school system. ORS 195.110(8)-(9).

3. Moratorium Based on a Compelling Need.

An urban compelling need moratorium must address the following:

- "(A) That application of existing development ordinances or regulations and other applicable law is inadequate to prevent irrevocable public harm from development in affected geographical areas;
- (B) That the moratorium is sufficiently limited to ensure that a needed supply of affected housing types and the supply of commercial and industrial facilities within or in proximity to the city, county or special

district are not unreasonably restricted by the adoption of the moratorium;

- (C) Stating the reasons alternative methods of achieving the objectives of the moratorium are unsatisfactory;
- (D) That the city, county or special district has determined that the public harm which would be caused by failure to impose a moratorium outweighs the adverse effects on other affected local governments, including shifts in demand for housing or economic development, public facilities and services and buildable lands, and the overall impact of the moratorium on population distribution; and
- (E) That the city, county or special district proposing the moratorium has determined that sufficient resources are available to complete the development of needed interim or permanent changes in plans, regulations or procedures within the period of effectiveness of the moratorium."

Notice and hearing are also required. ORS 197.520(1). The time period for a compelling need moratorium is limited to 120 days.

4. De Facto Moratorium.

ORS 197.524 essentially provides that the county may not engage in a pattern or practice of denying or delaying permits that are consistent with the acknowledged plan and land use regulations unless the county goes through the statutory provisions discussed above. This is sometimes referred to as a de facto moratorium.

C. FEASIBILITY OF ADOPTING A PUBLIC FACILITIES STRATEGY.

Although the request submitted by CPO 4B is somewhat ambiguous, this memorandum assumes the request is focused on the provisions for a Public Facilities Strategy provided for under ORS 197.768.

As discussed above there are three primary components to adopting a Public Facilities Strategy: (1) adopting findings consistent with ORS 197.768(4)(a)-(c), (2) implementing an overall plan to address the identified deficiencies within a two-year period, and (3) limiting the timing and sequencing of permits to accommodate the identified capacity problems.

1. Adopting findings consistent with ORS 197.768(4)(a)-(c).

(a) There is a rapid increase in the rate or intensity of land development in a specific geographic area that was unanticipated at the time the original planning for that area was adopted or there has been a natural disaster or other catastrophic event in a specific geographic area.

This provision requires findings demonstrating whether the rate or intensity of development was anticipated at the time the original plan was adopted.

As an initial matter this standard requires consideration of the original plan adopted by the county governing development. Although there are no specific dates provided, this standard does contemplate at least some historical review of the underlying plan.

Absent a review of the issuance of development permits (both frequency and scope) relative to the extent of development authorized under the plan (and possibly consideration of the sequencing of public facilities improvements relative to development intensity) there is no evidence presented to satisfy this requirement.

The few anecdotal comments in the submitted materials are not likely to provide substantial evidence that would support imposition of a Public Facilities Strategy.

The Planning Division is taking a closer look at the original plan to determine whether the scope and timing of development in this area was contemplated.

(b) The total land development expected within the specific geographic area will exceed the planned or existing capacity of public facilities.

While the first standard considers impacts from existing development, this standard requires a prospective consideration of whether existing and future development will exceed planned capacity.

There is no discussion in the materials regarding planned capacity based on the county's acknowledged plan and land use regulations. The materials do raise concerns regarding the capacity of facilities but absent some discussion of these concerns relative to planned capacity this standard cannot be satisfied.

(c) The public facilities strategy is structured to ensure that the necessary supply of housing and commercial and industrial facilities that will be impacted within the relevant geographic area is not unreasonably restricted by the adoption of the public facilities strategy.

The submitted materials do not address the need to accommodate development. Until such time as an overall Public Facilities Strategy is proposed (see below) <u>and</u> a plan is provided that will ensure development is not unreasonably restricted the county is foreclosed from pursuing this approach.

2. <u>Implementing an overall plan to address the identified deficiencies within a two-year period</u>.

The materials submitted do not include a Public Facilities Strategy or any discussion of what would be included in the event the county chose to pursue the same.

While the statutes do not provide any guidance on what must be included in a Public Facilities Strategy there are significant jurisdictional issues to consider with regard to the capacity issues raised in the submitted materials.

(a) School Capacity.

School facility capacity may not be the basis for imposing a moratorium. ORS 195.110(9). In addition notwithstanding the provisions for a Public Facilities Strategy, school capacity may not be the sole basis for denying residential development applications. Consequently there are some significant limitations in state law with regard to whether the county can impose limitations on the issuance of permits based on a school capacity problem at all.

In addition to these statutory limitations, clearly the county does not have the authority to plan for school capacity. Consequently the county will need to coordinate with the school district to determine whether a Public Facilities Strategy is feasible.

A good portion of the materials includes e-mails and newspaper articles regarding school capacity. However the School District Superintendent based on an e-mail dated September 20, 2004 indicates that the District would not be in favor of a resolution supporting limitations on growth. Without the support of the District the county will be unable to carry out a Public Facilities Strategy to address school capacity.

(b) Water Capacity.

Similar to school capacity problems, the materials include an article and e-mail regarding capacity problems with regard to water service. As with the School District, the correspondence with indicates an overall concurrency policy with regard to the water distribution system that assures new capacity is provided as development occurs.

In any event, absent a coordinated strategy with the jurisdiction responsible for water in this area, the county has not authority to impose a Public Facilities Strategy. There is nothing in the record that clearly establishes an existing capacity problem or whether the responsible jurisdiction is interested in participating in growth limitations to address those concerns.

(c) Transportation Capacity.

Transportation deficiencies are the only identified public facilities under the county's authority. However, the capacity problems are in large measure intersections with Highway 99W with Beef Bend Road and Bull Mountain Road. Without the participation of the Oregon Department of Transportation the county is again foreclosed from pursuing a Public Facilities Strategy.

Clearly identifying the overall capacity issues using objective planning data and coordinating with the affected jurisdictions is a fundamental pre-requisite to moving forward with a Public Facilities Strategy.

From the materials submitted it is not clear that the necessary interjurisdictional cooperation will be available for purposes of pursuing a Public Facilities Strategy.

3. <u>Limiting the timing and sequencing of permits to accommodate the identified capacity problems.</u>

The final piece in the overall public facilities strategy requires a very specific plan with regard to the timing and sequence of development permits. There is no preliminary proposal addressing this concern.

D. MEASURE 37

Measure 37 is implicated in at least two ways. First, the act of limiting development under a moratorium may be an adoption or enforcement of a land use regulation giving rise to a claim. In other words, current owners of property may be entitled to compensation or a "waiver" of the restriction on development imposed by the moratorium. Second, "down-zoning" or additional restrictions on development implemented to address the facilities issues also likely would give rise to claims. Therefore, the effectiveness of these statutes is called into question by adoption of Measure 37.

E. CONCLUSION

Serious consideration of any form of moratorium or limit on development otherwise provided for by current ordinances would require substantial effort to address numerous issues including:

- 1. Establishing substantial evidence in the record regarding an increase in development beyond that which is anticipated by the original plan;
- 2. Establishing substantial evidence in the record regarding a capacity problem relative to the facilities identified in the existing plan;
- 3. Assuming a capacity problem exists evaluating whether affected jurisdictions are willing to participate in a Public Facilities Strategy;
- 4. Developing a plan to accommodate development; and
- 5. Determining the impact of Measure 37 on the proposed Public Facilities Strategy.

Until such time as these issues are addressed adoption of a Public Facilities Strategy would be premature.

WASHINGTON COUNTY

Inter-Department Correspondence

DATE:

April 21, 2005

TO:

Aisha Willits, Associate Planner

FROM:

Chris Gilmore, Assistant County Counsel

SUBJECT:

Bull Mountain Refinement Plan

Per your request this memorandum provides a brief summary of the statutory provisions regarding refinement plans and some of the legal issues that may arise in adopting the same for purposes of addressing impacts from development on Bull Mountain.

Refinement Plans

In addition to a public facilities strategy and moratoria discussed in my prior memorandum dated March 1, 2005, state law also authorizes the county to adopt a refinement plan.

1. Area Specific Plan for Density

A refinement plan is provided for under ORS 197.200 and includes the authority to adopt a density range for residential housing within a specific geographic area. While a refinement plan is not necessarily limited to density issues, establishing a density range is mandatory. The plan must be implemented by adopting land use regulations.

Because land use regulations must be adopted imposing a density range, this approach will likely create a right to compensation under Measure 37 for any regulations restricting existing development rights.

2. Expedited Land Divisions

Once the plan is in place, state law requires any applications for the division of land to be processed as an expedited land division.

(a) Limited Citizen Participation

An expedited land division provides a truncated review process that requires a final decision in 63 days from the date it is complete rather than the typical 120 days. Although there is a 14-day comment period there is no hearing on the application. Consequently there is less citizen participation during the local review process.

(b) <u>Limited Issues on Appeal</u>

Appeals from decisions issued by the county are also limited. An appeal must be to a referee designated by the county rather than to the Land Use Board of Appeals. The decision of the referee is then appealable to the Court of Appeals. The Court of Appeals may overturn only if: (1) the decision was not actually an expedited land decision, (2) there was misconduct, corruption or the hearings officer exceeded his authority as described in ORS 36.705 (1)(a) to (d) or (3) the decision was unconstitutional.

In summary although the refinement plan permits more detailed planning including a specific density range, the ultimate decision requires adoption of land use regulations regarding density that will likely fall within the scope of Measure 37. In addition once the plan is in place there is less citizen participation during the development review and a very limited basis for overturning the final decision on appeal.

B. INTERJURISDICTIONAL COORDINATION AND THE IMPACTS OF MEASURE 37

1. Interjurisdictional Coordination

With regard to capacity issues for services not provided by the county it is clear any action must be coordinated with those entities including water, sewer, school facilities and transportation issues relating to 99W.

To the extent a refinement planning process is utilized, under ORS 197.015 the county is required to accommodate the concerns of other affected jurisdictions "as much as possible" in developing a comprehensive plan.

As provided in my prior memorandum the county is expressly precluded under ORS 195.110(9) from imposing a moratorium based on school capacity. Any moratorium based on water, sewer or transportation issues relating to 99W must be coordinated with the affected service providers to assure the county's basis for imposing the moratorium is reasonable and to assure the affected service provider is willing to participate in long-term planning solutions to the extent the construction and financing of additional facilities are necessary to mitigate impacts from development.

2. Limitations of Measure 37

Assuming the county and the affected services districts agree on the basis for imposing interim development constraints property owners may have a claim under Measure 37 for those temporary restrictions.

Section 1 of Measure 37 entitles an owner to compensation for the enactment of any land use regulation that both restricts the use of property and reduces its value. Under Section 8 local government may decide to not apply (often referred to as a waiver) the regulation in lieu of compensation.

Measure 37 applies to both "statutes limiting the use of land or any interest therein" as well as "local government * * * zoning ordinances." Although the statutes governing moratoria and public facilities strategies are not specifically listed there is at least a reasonable argument that implementing a moratorium would fall within the scope of Measure 37.

Ultimately if a lower density is adopted as part of a refinement plan (ORS 197.200) a corrective action plan adopted under a moratorium (ORS 197.530) or a public facilities strategy (ORS 197.768), property owners will likely be entitled to compensation under Measure 37. The county may of course pay compensation to assure enforcement of the new regulations.

Ultimately the decision of whether to impose limitations on and reduce the scope of existing development rights to prevent further capacity problems rests with the Board. This decision must of course consider the limitations imposed by Measure 37, the importance of coordinating with the responsible service providers, and the pros and cons of the various growth management tools available under state law.



WASHINGTON COUNTY OREGON

June 28, 2005

DRAFT PLANNING DIVISION ISSUE PAPER NO. 15

Park Planning for the Bull Mountain Area

Issue

Through the Planning Division's 2005 work program, the Board of County Commissioners (Board) directed staff to prepare seven issue papers about planning and park issues in the urban unincorporated Bull Mountain area. This paper examines how to address park planning for the urban unincorporated Bull Mountain area in conjunction with Tigard's update of its Park System Master Plan.

Recommendation

Staff recommends that park planning for the Bull Mountain area should continue to be conducted by the City of Tigard through its update of the Tigard Park System Master Plan in 2006.

Background

At the Board's request, the Planning Division has prepared seven issue papers that address different planning and park issues associated with the urban unincorporated Bull Mountain area. Five of the other issue papers address density, parks funding alternatives, updating the Bull Mountain Community Plan, planning for the Bull Mountain UGB expansion areas, and amendments to the Washington County / Tigard Urban Planning Area Agreement. The seventh issue paper (IP 14) addresses CPO 4B's request for a public facility strategy / development moratorium for the Bull Mountain area.

In December 2004, the Board and the Tigard City Council held a joint meeting to discuss a number of issues about the Bull Mountain area that had been raised by residents in the area. The Board and Council expressed a desire to work together to develop a planning program that could address residents' concerns, primarily through the upcoming planning efforts of the city. The Board directed the county Planning Division to prepare Issue Papers 15, 16, 17, 18 and 21 in consultation with Tigard. The Board asked staff to include in these issue papers an assessment about how to address identified issues in conjunction with Tigard's update of its Comprehensive Plan and park master plan, and planning for the Bull Mountain UGB expansion areas.

The focus of this issue paper is park planning for the urban unincorporated Bull Mountain area. The following paragraphs present a chronology of events regarding park planning for the Bull Mountain area.

¹ IP 16 addresses park funding alternatives; IP 17 addresses decreasing densities; IP 18 addresses planning for the UGB expansion areas; IP 21 addresses updating the Bull Mountain Community Plan; IP 22 addresses Tigard's request to amend the UPAA for the UGB expansion areas.

• In 1983, the Board adopted the Bull Mountain Community Plan (BMCP). Urban unincorporated Bull Mountain, which is identified as the "Summit and Slopes Subarea" in the BMCP, is identified as being park deficient. At the time the BMCP was adopted, unincorporated Bull Mountain was not within the jurisdictional boundaries of a parks provider. However, General Design Element 15 of the BMCP required the county to coordinate with the City of Tigard for park planning and the provision of park and recreation services in urban unincorporated Bull Mountain.

Also in 1983, the first Washington County / Tigard Urban Planning Area Agreement (UPAA) was adopted. Per the adopted UPAA, urban unincorporated Bull Mountain was identified as an Area of Interest within the Tigard Urban Planning Area.

• In 1995, the county, along with Tualatin Hills Park and Recreation Department (THPRD) and the cities of Hillsboro and Tigard (the park providers for the majority of the urban area), began to study how best to provide park, recreation and open space services to urban Washington County through the work to implement the provisions of ORS 195, commonly referred to as Senate Bill 122. That work designated which local governments would be the long-term providers of park, recreation and open space services, and defined each provider's long-term service boundary and park/recreation service principles. The designated park providers are THPRD and the cities of Hillsboro and Tigard. In 2002, through the Tigard Urban Service Agreement (TUSA), the City of Tigard was designated as the parks provider for the area within the Tigard Urban Service Area (the same boundary as Tigard's Urban Planning Area in the UPAA), which includes urban unincorporated Bull Mountain.

Elements of the countywide park strategy are:

- 1. Properties will be served by the designated service provider when they are located within the jurisdictional boundary of Tigard, Hillsboro or THPRD.
- 2. In THPRD's long term service area, properties subject to development are required to annex to THPRD prior to final land use approval or issuance of building permits
- 3. Washington County may serve as an interim provider of park land and recreation facilities for urban unincorporated properties when specific requirements are met. An interim funding source for the county to acquire park and open space land could include a county park system development charge (SDC). The purpose of the county's interim role is to serve as a bridge, so that immediate funding can be provided for needed park and recreation facilities in areas under development, until the unincorporated properties are annexed to the applicable park provider.
- 4. Before the county could serve as an interim provider to unincorporated properties in the Tigard and Hillsboro Urban Service Areas, the following requirements must be met: 1) there be a commitment by the city to serve its long term service area; 2) The city's Park

Master Plan would address the unincorporated areas in its long-term service area; 3) The standards for park, recreation and open space services to the unincorporated areas would be those contained in the city's Park Master Plan; and 4) There be a commitment by the city to place an annexation plan on the ballot.

- In 1998, the Cache Creek Nature Park site (located within the urban unincorporated Bull Mountain area) was purchased by the city and county through their allocation of Metro's Greenspaces funds. The site, under the city's ownership, will be developed in the future by the city.
- In 1999, the City of Tigard updated its Park System Master Plan. The updated master plan addressed the unincorporated Bull Mountain area and lands within Tigard's city limits.
- In 2000, the proposal for the Atfalati Recreation Partnership District (Measure 34-23) was placed on the ballot. The measure proposed to provide recreation facilities and park improvements in the Tigard and Tualatin areas, and to provide recreation programs. The measure failed in the November 2000 election. The unincorporated Bull Mountain area, which is comprised of three precincts, opposed the measure by a range of 58% to 66% of the voters.
- In 2002, the Tigard Urban Service Agreement (TUSA) was adopted and became effective. In this agreement, the unincorporated Bull Mountain area was identified as part of the City of Tigard's urban service area, and the city was designated as the parks provider for the entire Tigard urban service area. The agreement's park and recreation service principles include:
 - The standards for parks, open space and recreational facilities will be the standards in Tigard's Park System Master Plan;
 - 2) Updates to Tigard's Park System Master Plan shall address all properties in the Tigard Urban Service Area.
- In November 2004, the City of Tigard placed a double majority annexation measure on the ballot for the annexation of Bull Mountain. The Tigard City Council established the Bull Mountain Annexation Parks and Open Space Task Force in January 2004; the purpose of the Task Force was to provide additional time for public discussion and review of key benefits of annexation as it pertained to parks and open spaces. The Task Force developed a Bull Mountain Parks Concept Plan, which identified potential park sites on Bull Mountain and provided cost estimates of acquiring and developing the sites. The annexation measure failed in the November 2004 election.
- In December 2004, the City of Tigard updated its parks SDC methodology and rate. The SDC update incorporated proposed parks identified in the Bull Mountain Parks Concept Plan. The city increased its park SDC for a single family dwelling from \$1,580 to \$3,753, which is only applicable to new development in the city. The park SDC was increased

substantially in order to pay for the full expected cost of providing parkland and recreational facilities for new development in the city and urban unincorporated Bull Mountain. The analysis for Issue Paper 16, which addresses park funding alternatives, indicates that the majority (approximately 69%) of the park deficiency on Bull Mountain is due to existing residential development.

- In 2004, the county began evaluating a proposal (Ordinance 632) that would allow the county to become an interim provider of park land in unincorporated Bull Mountain. The next scheduled hearing for Ordinance 632 is July 19, 2005.
- In 2005, the city funded an update of its Park System Master Plan and Capital Improvement Plan, which will address the entire Tigard Urban Service Area, including the unincorporated Bull Mountain area. The update will begin in 2006.
- In April 2005, the City of Tigard's Parks and Recreation Department issued a draft *List of Land Acquisition Projects for Fiscal Year 2005 2006*. This draft list includes the acquisition of neighborhood parks, an open space area, and pocket parks that would serve the urban unincorporated Bull Mountain area.

Analysis

As noted at the beginning of the Background section, the Board directed the county Planning Division to prepare this issue paper about park planning for the urban unincorporated Bull Mountain area. The Board asked staff to include in this issue paper an assessment about how to address the park planning issue in conjunction with Tigard's update of its Park System Master Plan.

To address the above issue, staff examined several factors. First, staff reviewed the Comprehensive Framework Plan for the Urban Area and the TUSA, which identify the parks provider for Bull Mountain. Second, staff compared the county and the city in terms of their respective park planning expertise and availability of funding for park planning. Third, staff examined the project scope. Fourth, staff examined the issues of efficiency and economies of scale in conducting the park planning. Fifth, staff reviewed the park planning efforts that the city has already undertaken with respect to Bull Mountain. Based on these factors, described in more detail below, staff concludes that the City of Tigard should continue to conduct the park planning for the Bull Mountain area through its update of the Tigard Park System Master Plan in 2006.

1) Consistency with the Comprehensive Framework Plan and TUSA. Washington County's Comprehensive Framework Plan for the Urban Area, and the adopted Tigard Urban Service Agreement (TUSA), a binding agreement, both specify that the city is the parks provider for Bull Mountain. In order for the county to conduct park planning for unincorporated Bull Mountain, amendments to the TUSA and the Framework Plan, specifying the county as a parks provider, would need to be approved by the City of Tigard and by the Board, respectively.

- 2) Expertise. The City of Tigard has a parks department, and has a Park System Master Plan and Park Capital Improvement Plan for its entire urban service area, which includes unincorporated Bull Mountain. The county has not historically been a parks provider and has neither a parks department nor expertise in parks planning and development.
- 3) Funding. The county does not have the revenue to undertake park planning. Existing homeowners and new development in unincorporated Bull Mountain don't provide funding for park planning and park provision through a parks SDC or property taxes as city residents do. Conversely, the city has recently updated its parks SDC methodology and rate and has funded a Parks System Master Plan update, which is scheduled to begin in 2006. The Parks System Master Plan update will include parks planning for the Bull Mountain area.
- 4) Project Scope. The park needs of the entire community in the Tigard Urban Service Area, not just a part of it, need to be examined as part of the park planning process for Bull Mountain. This is particularly true since some neighborhood and community parks and recreational trails that will serve unincorporated Bull Mountain will be located in the City of Tigard and vice versa. For example, Tigard's Cache Creek Nature Park site, which is within urban unincorporated Bull Mountain, will be a park serving both Bull Mountain and City of Tigard residents. The city, which has already developed a Park System Master Plan for the Tigard Urban Service Area as mentioned above, is the logical entity to conduct park planning at the level of the entire urban service area.
- 5) Efficiency. It is more efficient for the city to conduct the park planning for the Bull Mountain area as part of the Tigard Park System Master Plan update, which has been recently funded and is scheduled to move forward in 2006. A proposal for the county to create a separate parks plan for unincorporated Bull Mountain would constitute a duplication of effort. In addition, due to the county's lack of expertise in park planning, if the county were to undertake park planning for Bull Mountain, the City of Tigard or a consulting firm would need to provide assistance and guidance to the county. The county and city's efforts would also have to be coordinated because much of Bull Mountain is now within the city.
- 6) <u>Economies of scale</u>. The greatest cost savings is obtained by updating the whole of the existing master plan for the Tigard Urban Service Area through one process rather than two separate processes, which would have to be coordinated.
- 7) <u>City's park planning efforts on behalf of Bull Mountain</u>. The city has invested effort and funds in parks planning for Bull Mountain, as evidenced by:
 - The city's 1999 Park System Master Plan, which includes the Bull Mountain area; the
 city's 2004 park SDC methodology update, which incorporates proposed parks identified
 through the Bull Mountain Parks Concept Plan;
 - The city's acquisition of the Cache Creek Nature Park site;

DRAFT ISSUE PAPER NO. 15 Park Planning for the Bull Mountain Area June 28, 2005 Page 6

- The city will be starting work on an update of its Park System Master Plan in 2006, the scope of which will include unincorporated Bull Mountain;
- The city is currently working to acquire park land and open space in unincorporated Bull Mountain, as indicated in the Tigard Parks and Recreation draft *List of Land Acquisition Projects for Fiscal Year* 2005 2006.

Therefore, based on the above factors, staff concludes that it is appropriate for the City of Tigard, rather than the county, to continue to conduct the park planning for Bull Mountain. Given the city's past and ongoing planning activities on behalf of Bull Mountain, it is unlikely that the city would wish to amend the park provider provision of the TUSA.

wpshare\2005ord\work program\issue papers\Bull Mt\IP 15\IP 15 park planning final draft 6-28-04



WASHINGTON COUNTY OREGON

June 28, 2005

DRAFT PLANNING DIVISION ISSUE PAPER NO. 16

Potential Funding Alternatives to Provide Parks and Open Space In the Bull Mountain Area

Issue

Through the Planning Division's 2005 work program, the Board of County Commissioners (Board) directed staff to prepare seven issue papers about planning and park issues in the urban unincorporated Bull Mountain area. Issue Paper 15 examined park planning for the Bull Mountain area. While drafting that paper, staff realized that more analysis was needed on the issue of providing parks. Issue Paper 16 provides an overview of different funding alternatives for providing parks and open space in the Bull Mountain area.

Recommendation

The purpose of Issue Paper 16 is to provide information about potential funding alternatives to provide parks and open space in the Bull Mountain area. Consequently, this paper does not make any recommendations about the alternatives. However, staff does recommend that future consideration of a park LID, county park service district or a park and recreation special service district be contingent upon the submission of a citizen petition requesting the formation of one of these alternatives.

Background

Urban unincorporated Bull Mountain is identified as the "Summit and Slopes Subarea" in the Bull Mountain Community Plan (BMCP). The BMCP identifies the subarea as being park deficient. When the BMCP was adopted in 1983, unincorporated Bull Mountain was not within the jurisdictional boundaries of a parks provider. However, General Design Element 15 of the BMCP required the county to coordinate with the City of Tigard for park planning and the provision of park and recreation services in urban unincorporated Bull Mountain.

In 2002 and 2003, respectively, the Tigard Urban Service Agreement (TUSA) was adopted and the Comprehensive Framework Plan for the Urban Area (Framework Plan) was amended, both of which designated the City of Tigard as the parks provider for urban unincorporated Bull Mountain. The background section of Issue Paper 15 (Park Planning for the Bull Mountain Area) provides a chronology of events from 1983 to the present, regarding park planning for the Bull Mountain area.

At the Board's request, the Planning Division has prepared seven issue papers that address different planning and park issues associated with the urban unincorporated Bull Mountain area. Five of the other issue papers address density, park planning, updating the Bull Mountain

DRAFT ISSUE PAPER NO. 16
Potential Park and Open Space Funding Alternatives
June 28, 2005
Page 2

Community Plan, planning for the Bull Mountain UGB expansion areas, and amendments to the Washington County / Tigard Urban Planning Area Agreement. The seventh issue paper (IP 14) addresses CPO 4B's request for a public facility strategy / development moratorium for the Bull Mountain area.

In December 2004, the Board and the Tigard City Council held a joint meeting to discuss a number of issues about the Bull Mountain area that had been raised by residents in the area. The Board and Council expressed a desire to work together to develop a planning program that could address residents' concerns, primarily through the upcoming planning efforts of the city. The Board directed the county Planning Division to prepare Issue Papers 15, 16, 17, 18, 21 and 22 in consultation with Tigard staff. The Board asked staff to include in these issue papers an assessment about how to address identified issues in conjunction with Tigard's update of its Comprehensive Plan and park master plan, and planning for the Bull Mountain UGB expansion areas.

Lack of parks on Bull Mountain was identified as a key citizen issue. In addition, Bull Mountain residents raised the possibility of a local improvement district (LID) to provide parks. Staff recognizes that at least seven alternatives exist for funding parkland acquisition, development, and/or operations and maintenance for the park-deficient Bull Mountain area. These alternatives are:

- 1) <u>County park LID</u>: A LID is a means of funding construction, operation and maintenance of a public improvement.
- 2) <u>County special service district (ORS Ch. 451)</u>: A county special service district (county service district) is a district established to provide service facilities in a county or counties. Examples of county service districts in Washington County are the Enhanced Sheriff's Patrol District (ESPD), the Urban Road Maintenance District (URMD), the Service District for Street Lighting (SDL), and Clean Water Services (CWS).
- 3) Park and recreation special service district (ORS Ch. 266): Park and recreation districts (park and recreation districts) are municipal corporations formed by communities to provide park and recreation facilities for the inhabitants. An example of a park district in Washington County is the Tualatin Hills Park and Recreation District (THPRD).
- 4) County park system development charge (SDC): A system development charge (SDC) is a method by which new development is charged to fund the capital improvements needed to serve that development. In 2004, the county proposed an interim park and recreation SDC for urban unincorporated Bull Mountain in conjunction with proposed Ordinance 632. The next scheduled public hearing for Ordinance 632 is on July 19, 2005. The 2004 proposed park SDC was rejected because it did not reflect the City of Tigard's new park SDC

¹ IP 15 addresses park planning issues; IP 17 addresses decreasing densities; IP 18 addresses planning for the UGB expansion areas; IP 21 addresses updating the Bull Mountain Community Plan; IP 22 addresses Tigard's request to amend the UPAA for the UGB expansion areas.

methodology report and rates for the Bull Mt. area. Please see pages 22 and 23 for more information about a county park SDC.

- 5) <u>Park provision by the City of Tigard:</u> Parkland acquisition, development and maintenance funded and conducted by the City of Tigard.
- 6) <u>Joint park provision by the county and the City of Tigard</u>: Parkland acquisition, development and maintenance jointly funded and conducted by the City of Tigard and Washington County.
- 7) <u>Private funding</u>: Private funding mechanisms for parks could include the formation of a non-profit organization, private corporation, or homeowners association for the purpose of raising funds for parkland acquisition, development and maintenance.

Staff notes that all of the above park funding alternatives would need to be consistent with local planning related requirements prior to implementation. In this case, the local planning related requirements are the county's Comprehensive Framework Plan for the Urban Area (Framework Plan), the Bull Mountain Community Plan (BMCP), and the Tigard Urban Service Area Agreement (TUSA). Only the private funding alternative was consistent with all three of the local requirements. The remaining alternatives were inconsistent with one or more of the three local requirements, and would require amendments to the Framework Plan, the TUSA, or both prior to implementation. See Table A, *Park Funding Options –Consistency with Planning Related Requirements*, for details about the consistency of each alternative with the planning related requirements.

Alternatives #1 through #4 (county park LID, county service district, park and recreation special service district, and county park SDC) involve park funding at the county level, and will be examined in more detail in this issue paper. Park funding alternatives #5 and #6, which involve park funding by the City of Tigard, were not further examined because staff is assuming that the city would spend its revenue to serve areas *within* the city limits. Staff is unaware of any city or park district that spends its revenue to construct facilities outside of its boundary to serve residents and employees outside its boundary. Staff did not examine private funding alternatives because they would not involve the county.

Analysis

PARK NEEDS.

Before comparing the four park funding alternatives, it is first necessary to present an assessment of Bull Mountain's park needs, and the estimated costs associated with those needs. It is important to point out that the park needs assessment in this issue paper is not an independent assessment. Because the county is not a parks provider and does not have expertise in park planning, staff has relied upon the parks provider's plans, as we did in 2004 for THPRD's ultimate service area.

Page 4

Table A
Park Funding Options –Consistency with Planning Related Requirements

raik runc	ning Options -Consistency	With Flamming Kelated Kequiter	iicii to
Alternatives	Comp. Framework Plan	Bull Mt. Community Plan	TUSA
Tigard	OK	OK – county must coordinate with Tigard for park planning and provision of facilities	NO – Service by Tigard is limited to its city limits
County park SDC (SDCs may only provide capital improvements)	NOT CONSISTENT county can't be a provider due to lack of an annexation plan ²	OK – county must coordinate with Tigard for park planning and provision of facilities	OK
County LID	 NOT CONSISTENT county can't be a provider due to lack of an annexation plan² Plan only permits interim capital improvements by county³ 	OK – county must coordinate with Tigard for park planning and provision of facilities	NOT CONSISTENT – Tigard is the designated provider, not the county ⁴
County 451 service district (This option was previously rejected by voters)	 NOT CONSISTENT county can't be a provider due to lack of an annexation plan² Tigard is the designated provider Plan only permits interim capital improvements by county⁵ 	OK – county must coordinate with Tigard for park planning and provision of facilities	Should study feasibility, must serve entire TUSA ⁶
Park and recreation service district	NOT CONSISTENT • Tigard is the designated provider ⁷	OK – county must coordinate with Tigard for park planning and provision of facilities	Should study feasibility, must serve entire TUSA ⁸
Joint funding by county & Tigard	NOT CONSISTENT	OK	NOT CONSISTENT – Service by Tigard is limited to its city limits

² If adopted, Ordinance 632 would eliminate this issue.

³ Must amend the Comp Plan to: a) designate the county as a service provider; b) allow the county to provide maintenance and operation services; and c) allow the county to be a long term service provider <u>or</u> define an LID as an interim provision of service.

⁴ Must amend the Tigard Urban Service Agreement (TUSA) to make the county a designated service provider.

⁵ Must amend the Comp Plan to designate a county park service district as the long term service provider of all park and rec. services.

⁶ Must amend the TUSA to designate a county park service district as the service provider.

⁷ Must amend the Comp Plan to designate a park service district as the service provider.

⁸ Must amend the TUSA to designate a park service district as the service provider.

⁹ Must amend the Comp Plan to designate the county as a service provider & allow the county to provide maintenance and operation services.

Because the City of Tigard is the designated parks provider for urban unincorporated Bull Mountain, staff has relied upon the park planning documents prepared by the city. These documents are discussed in more detail below.

The park needs assessment below identifies the study area; the quantity, type, and size of needed parks within the study area; and potential park locations within the study area. The subsequent section, "Park Costs", provides an estimate of the costs associated with the identified park needs.

Identification of the boundary of the Bull Mountain park study area.

The present limits of urban unincorporated Bull Mountain were the starting point for the identification of the study area. However, urban unincorporated Bull Mountain is not an entirely contiguous area. A small number of urban unincorporated Bull Mountain properties are "islands", surrounded on all sides by properties within the City of Tigard. Two of these "island" areas were excluded from the proposed study area due to their significant spatial separation from the proposed Bull Mountain parks locations, which are described in more detail in the following section. The excluded "island" properties are those urban unincorporated properties located east of the BPA easement and abutting SW Fern Street, and those urban unincorporated properties located east of SW 133rd Avenue and north of, and abutting, SW Hood Vista Lane. The resulting proposed study area is shown in Map A, *Bull Mountain Park Study Area*.

Identification of the quantity, size and type of Bull Mountain parks to be funded. In order to identify the appropriate quantity, size, and types of parks that should be funded, staff has relied in large part on park planning documents prepared by the City of Tigard and the city's Bull Mountain Annexation Parks and Open Space Task Force. Tigard is the identified park provider to the area, and its Park System Master Plan and park SDC address the area. Therefore, staff has relied upon the following documents: the 1999 *Tigard Park System Master Plan* (TPSMP), the 2004 *Tigard Parks and Recreation System Development Charges Methodology Update* (SDC Methodology Update), the 2004 *Bull Mountain Parks Concept Plan* (BMPCP).

In addition, the county is aware that a parcel currently owned by the Trust for Public Lands (TPL) exists within urban unincorporated Bull Mountain, located west of the Cache Creek Nature Park site. Staff is aware of the community's desire to preserve the TPL site as a Bull Mountain greenspace. Lastly, staff concluded that a park funding alternative should fund the development of Tigard's Cache Creek Nature Park site, which was acquired through the Metro Greenspaces Program by funds designated to Tigard and Washington County for the purchase of greenspaces.

Identified Park and Recreation Improvements

Based on the above information, staff concluded that each of the four park funding alternatives would need to fund the acquisition and development of the park and recreation improvements described below. Approximately 77% of the improvements are needed to serve existing development in the area.

- a) Four neighborhood parks, each approximately 2 3 acres in size;
- b) BPA powerline linear park trail, approximately 5.4 acres in total area;
- c) Powerline pocket parks, totaling approximately 2.5 acres in size;

- d) TPL greenspace, approximately 4 acres in size;
- e) Development of the 12.15 acre Cache Creek Nature Park site.

Figure 1 is the BMPCP, developed in 2004 by the city's Bull Mountain Annexation Parks and Open Space Task Force. The BMPCP illustrates proposed locations for the four neighborhood parks, the BPA powerline linear park trail, and the powerline pocket parks, as well as the existing location of the Cache Creek Nature Park site.

Consistent with the Framework Plan and the TUSA, the character and proposed improvements of the above park facilities would be consistent with the Tigard Park System Master Plan (TPSMP). For example, the TPSMP defines greenspaces as areas of natural quality that protect valuable natural resources and provide wildlife habitat. Per the TPSMP, greenspace improvements would be limited to features such as trails, picnic areas, and interpretive signs. Similarly, although nature parks are not listed as a separate category in the TPSMP, staff has assumed that the Cache Creek Nature Park site would retain its wooded character, and would ultimately be improved with trails and perhaps a small-scale interpretive center.

On the other hand, the TPSMP states that the purpose of neighborhood parks and pocket parks is to provide recreation opportunities. Per the TPSMP and the BMPCP, these types of parks would feature children's play areas, picnic areas, and sports facilities; that is, they would be developed to a greater or lesser degree, rather than being retained in their current natural condition, as an open space area would be retained. Figures 2, 3, 4, and 5 are the BMPCP illustrative plans for neighborhood and pocket parks, showing the more developed character of these parks containing sports courts and playground areas.

Identification of potential Bull Mountain park sites.

The next step was determining potential locations for the above facilities. The TPSMP and BMPCP identified generalized neighborhood park locations in the north, south, east and west quadrants of unincorporated Bull Mountain, but did not identify specific lots as park sites. However, the city is currently in negotiations to acquire approximately 2 acres of a property abutting the Cache Creek Nature Park to the north, for a north neighborhood park. The location of the Cache Creek Nature Park and the potential north neighborhood park site are shown on Map B, *Generalized Potential Park Locations*. The *Generalized Potential Park Locations* map also shows the generalized locations of the south, east, and west neighborhood parks, as per the TPSMP and BMPCP; and the proposed powerline linear park, which will be coterminous with the existing BPA easement. Lastly, the map shows the TPL site, located west of the Cache Creek Nature Park.

As noted above, <u>specific</u> park sites for the proposed south, east and west neighborhood parks were not identified in the TPSMP and BMPCP; those plans identified only generalized neighborhood park locations. To determine whether potential park sites currently exist in the generalized locations identified in those plans, staff compared the generalized park locations in the TPSMP and BMPCP with a current map of vacant and redevelopable lands for the Bull Mountain area, as well as aerial photos of the Bull Mountain area. Properties were identified as potential neighborhood park sites if they met the following criteria:

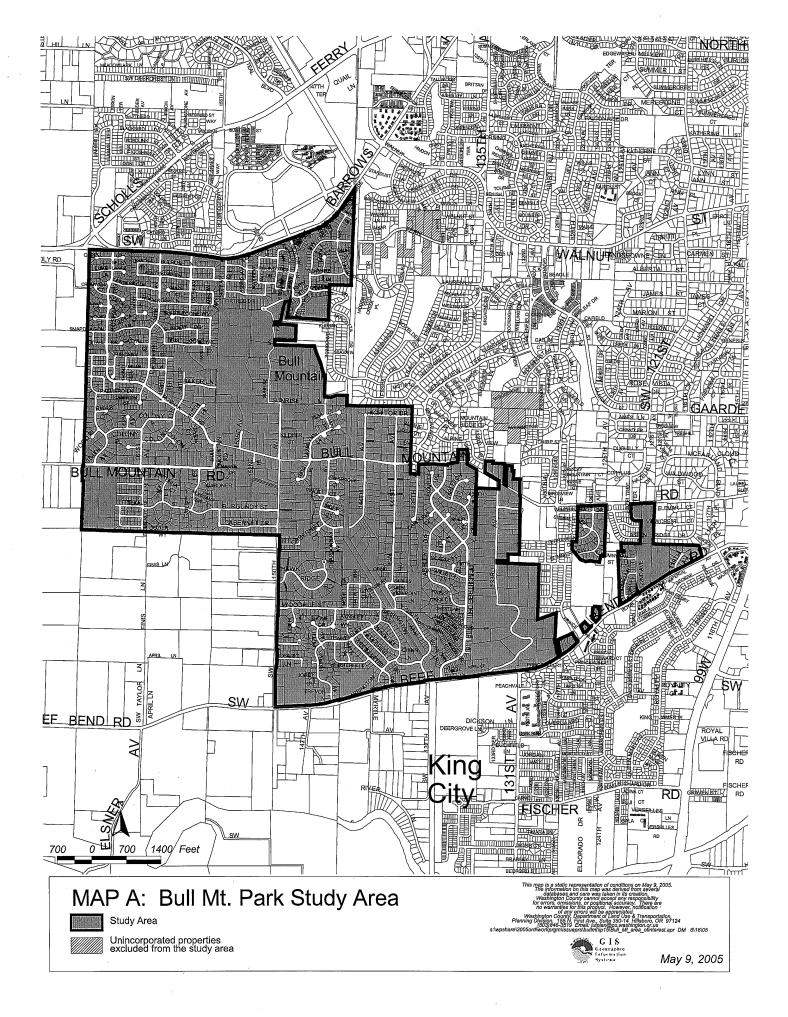
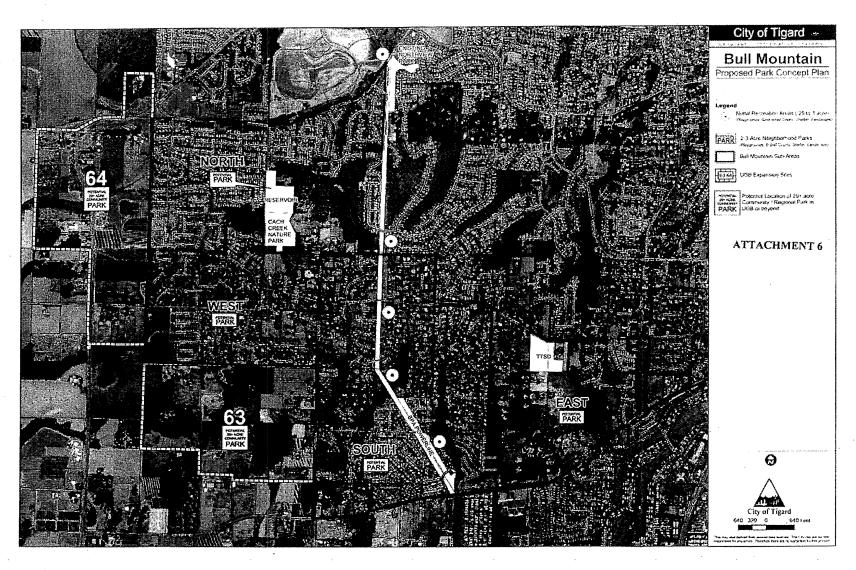
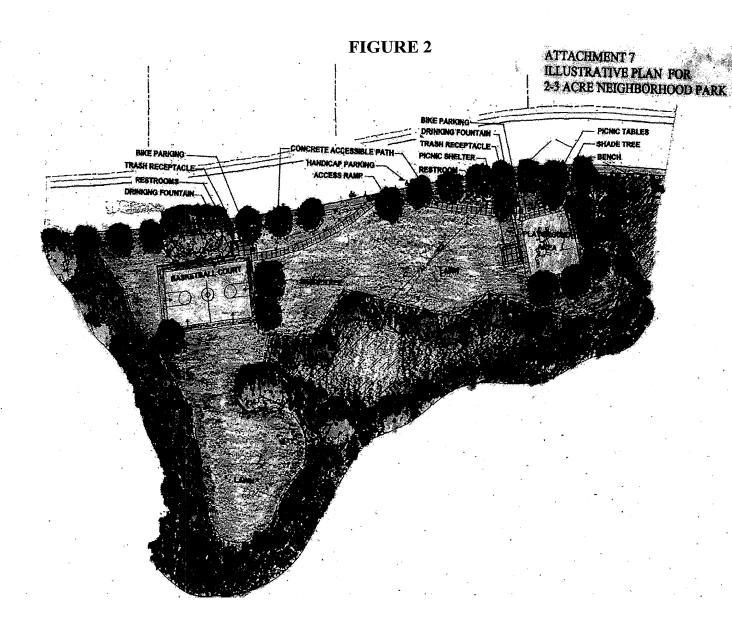


FIGURE 1



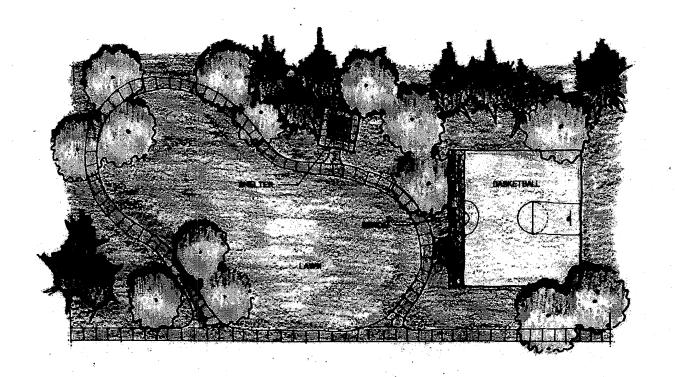
DRAFT ISSUE PAPER NO. 16
Potential Park and Open Space Funding Alternatives
June 28, 2005
Page 8



DRAFT ISSUE PAPER NO. 16
Potential Park and Open Space Funding Alternatives
June 28, 2005
Page 9

FIGURE 3

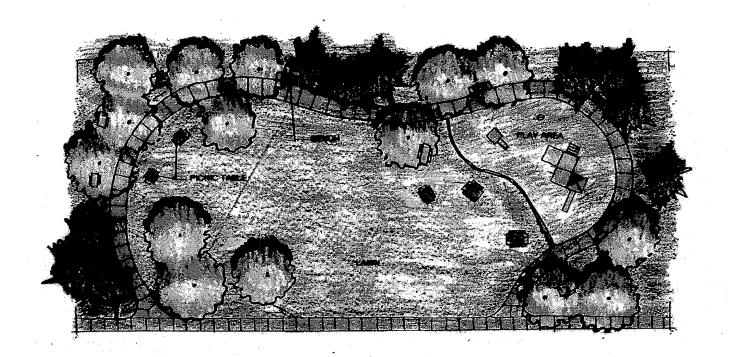
ATTACHMENT 8
ILLUSTRATIVE PLAN FOR "NODA OPTION A



SCALE 1" = 25-0"

FIGURE 4

ATTACHMENT 9 ILLUSTRATIVE PLAN FOR "NODAL" PARK OPTION B

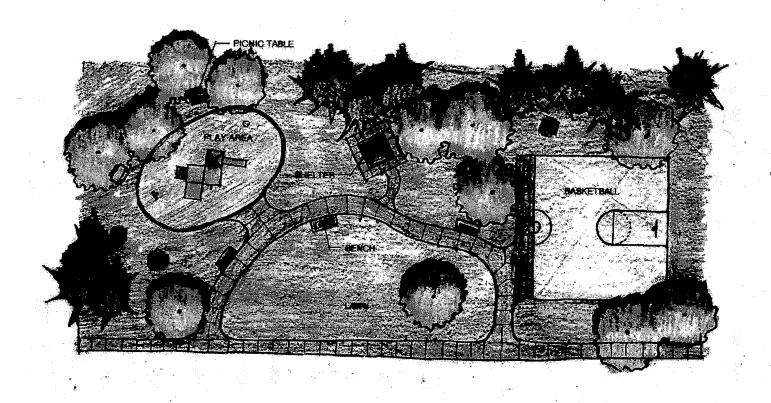


FAX - GTIEN



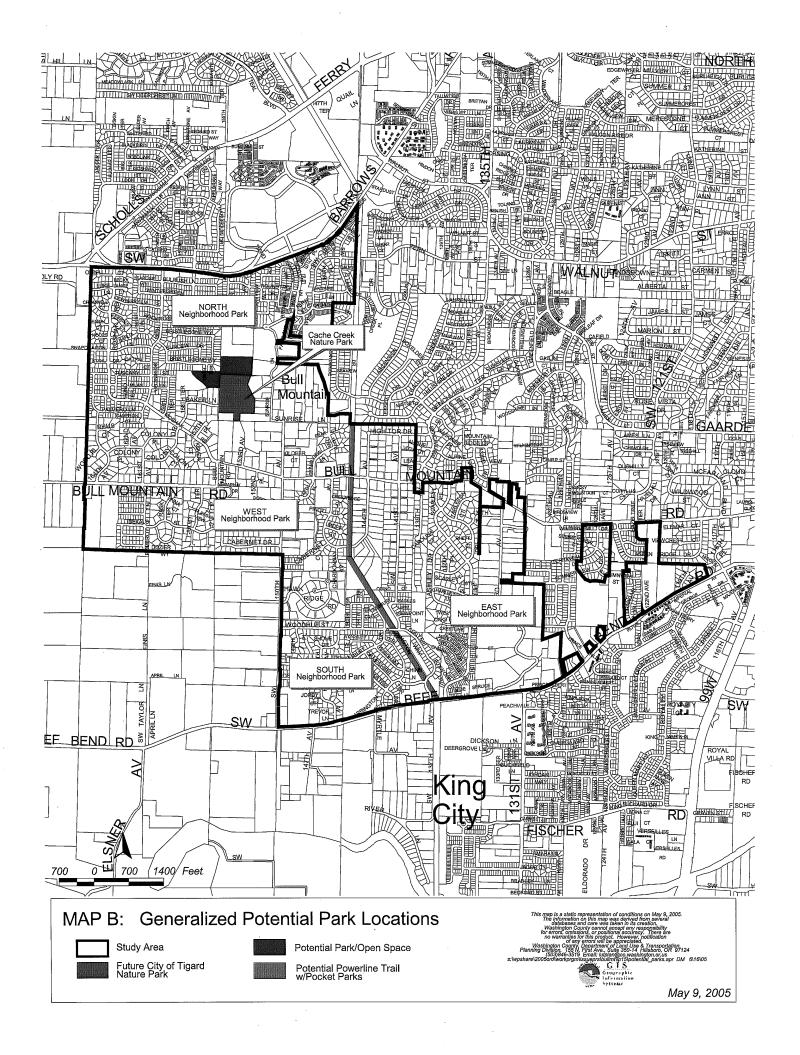
FIGURE 5

ATTACHMENT 10
ILLUSTRATIVE PLAN FOR "NODAL" PARK
OPTION C



PARK - OPTION 6

DRAFT ISSUE PAPER NO. 16
Potential Park and Open Space Funding Alternatives
June 28, 2005
Page 12

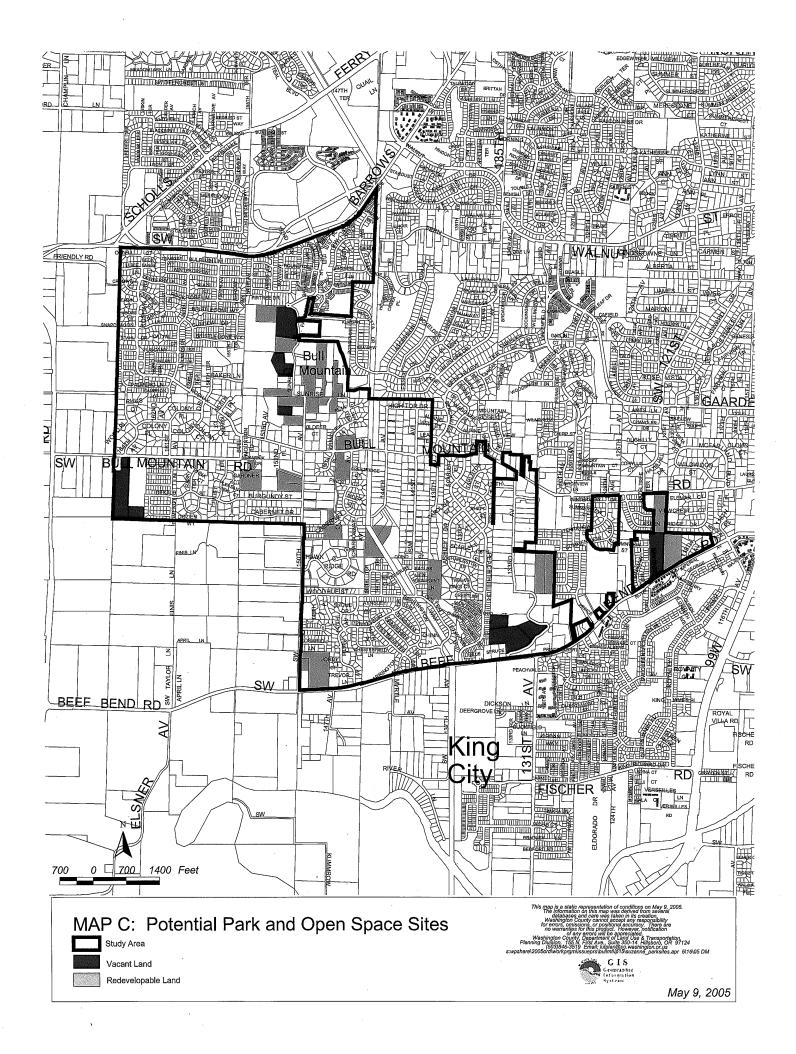


- 1) The properties were vacant per the Metro 2004 Vacant Lands Inventory;
- 2) The properties were at least 3 acres in size or, if less than 3 acres in size, were part of a cluster of vacant properties totaling at least 3 acres in size.
- 3) For properties with at least ½ acre of vacant land, the existing improvements (dwellings and other structures) were located on the parcel in a manner that would allow retention of those improvements if part of the land were partitioned to create a park. Properties in which the location of existing improvements precluded park development (i.e., aerial photos indicated that the structures were in the center of the parcel) were eliminated from consideration.
- 4) The properties were <u>not</u> identified as being steeply sloped on the City of Tigard's map for the area. More level sites were deemed desirable for neighborhood parks, which would be improved with playgrounds and/or ball fields.
- 5) The lands did <u>not</u> have pending development applications or pending annexations before the City of Tigard.

Vacant properties that were identified as potential park sites are shown on Map C, *Potential Park and Open Space Sites*. Properties that are not completely vacant generally contain single-family residences. They were designated as redevelopable due to their larger size and potential for further subdivision. However, staff recognizes that owners of the vacant lots identified on this map may be unwilling to sell all or any of their property for park use. In addition, according to Tigard's Community Development staff, developers have requested pre-application meetings to discuss the proposed development of several of the sites identified on the *Potential Park and Open Space Sites* map. Therefore, the actual number of potential park sites may be less than that shown on the *Potential Park and Open Space Sites* map.

Staff notes that there are a limited number of vacant sites suitable for neighborhood parks, particularly in the southern quadrant of unincorporated Bull Mountain. In the southern quadrant, only two partially vacant parcels were identified. The location of these parcels is less than ideal from a neighborhood park site perspective because the parcels are located at a periphery of the Bull Mountain urban unincorporated area, and are adjacent to the intersection of a collector and an arterial (intersection of SW 150th Avenue and SW Beef Bend Road). A park location more central to the southern neighborhood area and on a neighborhood street would be preferable.

The number of vacant sites was also limited in the western and eastern quadrants of unincorporated Bull Mountain. The western quadrant (area south of Bull Mountain Road and west of the BPA easement) has approximately six wholly or partially vacant parcels of sufficient size for neighborhood park sites. The vacant parcels are located at the western edge of the urban unincorporated area, abutting the new UGB expansion area. The eastern quadrant (area south of Bull Mountain Road and east of the BPA easement) has approximately eight wholly or partially vacant parcels of sufficient size for neighborhood park sites. As noted above, steeply sloped sites were excluded from consideration as potential park sites. However, even when steeply sloped sites were excluded, most of the remaining vacant sites are sloping and therefore would require a degree of grading to be appropriate for locating a neighborhood park with sports fields.



PARK COSTS.

Given the park needs identified in the above section, an estimate of park costs is provided below. Park costs have been divided into two parts: capital costs (acquisition and development) and ongoing costs (operations, program administration and maintenance).

Estimate of Capital Costs (Park Planning, Acquisition, Development)

Table B depicts the land acquisition cost and development cost for each proposed park project. The total project cost for all parks consisted of the sum of updating the existing park master plan for the Bull Mt. area, the project cost (land acquisition cost and development cost for each of the listed projects), plus the cost for designing of all projects, plus overhead costs¹⁰, which were assumed to be fifteen percent of the total project cost¹¹. In addition, the capital cost includes finance costs, which were calculated by the County's Chief Financial Officer. As shown in Table B, the estimated total capital cost is \$10,581,869.

Estimate of On-going Costs (Operations & Maintenance)

Currently, staff is developing estimated costs to maintain and operate the proposed park and recreation facilities and open space area identified on page 5. Since the county is not a park and recreation provider, the county does not have an existing program from which to calculate these costs. County staff is working with other area park and recreation providers to develop these estimated costs. These costs will be provided in the future through an update of this paper.

Measure 5/50 Issues

County Counsel has noted that Measure 5/50 has implications for how both capital improvement costs and ongoing costs can be assessed via a county parks LID, county service district, or park and recreation district. Measure 5/50 capped total tax assessment for local government services other than schools. Under Measure 5/50, if capital improvements are assessed before their completion, the assessment is treated as a property tax. However, if the capital improvements assessment may be financed over at least 10 years and is assessed after the capital improvements are completed, it is not treated as a property tax and is not subject to the Measure 5/50 tax limits. For purposes of this paper, staff is assuming interim financing for two years would be needed to come up with the capital for land acquisition and construction of improvements. The cost of interim financing would be exempt from the Measure 5/50 cap, per ORS 310.140(4), so long as it is included in the single post-completion assessment. The capital improvements would be constructed during the two-year interim financing period. The cost of the capital improvements would be assessed after their construction and may be financed over a 10-year period. These assessments would be levied and collected outside the property tax system, and would not be subject to the limit on property taxes.

¹⁰ Overhead costs include management of construction and legal fees.

This rate is an estimate provided by the City of Tigard and THPRD.

Table B – Bull Mountain Park Costs

		Land	Total Land		Total	
		Acquisition	Acquisition	Development	Development	Total Project
Project	Acres	Cost / Acre	Cost	Cost / Acre	Cost	Cost
North Neighborhood Park						
(Water Reservoir site)	3	\$95,000	\$285,000	\$160,000	\$480,000	\$765,000
East Neighborhood Park	3	\$320,000	\$960,000	\$160,000	\$480,000	\$1,440,000
West Neighborhood Park	3	\$320,000	\$960,000	\$160,000	\$480,000	\$1,440,000
South Neighborhood Park	3	\$320,000	\$960,000	\$160,000	\$480,000	\$1,440,000
Cache Creek Nature Park	12.15	\$0	City of Tigard ownership	\$52,675	\$640,000	\$640,000
Powerline Linear Park Trail	5.36	\$0			\$1,050,000	\$1,050,000
Powerline Pocket Parks	2.5	\$300,000	\$750,000	\$150,000	\$375,000	\$1,125,000
Greenspace Areas	4	\$320,000	\$1,280,000	\$260 per l.f.	\$1,625	\$1,281,625
					,	\$9,181,625

Cost to update
Bull Mt. Park Plan \$20,000
\$9,201,625

Construction
Admin
Costs (15%) \$1,380,244

TOTAL
CAPITAL COST \$10,581,869

County Counsel has noted that if a Local Improvement District assessment includes charges for operations and maintenance (O & M), then those assessments would fall within the Measure 5/50 definition of a tax and would be subject to the constitutional limit of \$10 per year per thousand for local government services other than schools. The existing tax rate for urban unincorporated Bull Mountain is \$5.97 per year per \$1000 of assessed valuation. Therefore, in order for an LID assessment for park O & M to comply with the Measure 50 cap, it would be limited to a maximum of \$4.03 per year per thousand of assessed valuation. A County Counsel memo (Attachment A) discussing the legal issues associated with LIDs is included as an attachment to this issue paper.

COMPARISON OF FUNDING ALTERNATIVES.

Four park funding alternatives (County park LID, county service district, Park and recreation special service district, and interim county park SDC) are outlined below. The capital and maintenance cost estimates in Table B were applied to each funding alternative to arrive at an assessment estimate for the development of the parks and open space area described in the "Park Needs" section of this paper. Annual maintenance and operation costs will be provided at a future date.

County Park LID

A local improvement district (LID) is a means of funding construction, operation and maintenance of a public improvement. Presently, only one park LID – the Metzger Park LID - exists in Washington County. The Metzger Park LID was formed in the mid-1970s at the request of the citizens of the Metzger area, to fund the maintenance of the then existing Metzger Park. The 2004/2005 LID assessment is \$90,500. Fifty-five percent of the LID is funded by residential development and the remaining 45 % is funded by commercial development (e.g., Washington Square).

Chapter 3.20 of the County Code sets forth the standards for LID formation. The County Counsel memo (Attachment A) describes the process for initiating and approving a county LID. As discussed in the County Counsel memo, a public hearing for the LID must be held, and sufficient remonstrance (remonstrance by two-thirds of the property owners within the LID) can halt an LID formation proposal.

An LID may only be used to fund public improvements. The expenses that may be funded by a parks LID include park planning, land acquisition, capital improvements, operation and maintenance of park facilities, and LID administration (staff costs for processing assessments, etc.). Per Chapter 3.20 of the County Code, expenses that <u>cannot</u> be funded by a county park LID include recreation programs, park rangers for patrols, and privately owned parks.

In County Counsel's opinion, if a county LID is used as the funding approach for parks on Bull Mountain, the County Code would probably require two separate park LIDs: an LID for park planning, land acquisition, and park development, and an LID for the annual operations and maintenance of the constructed parks.

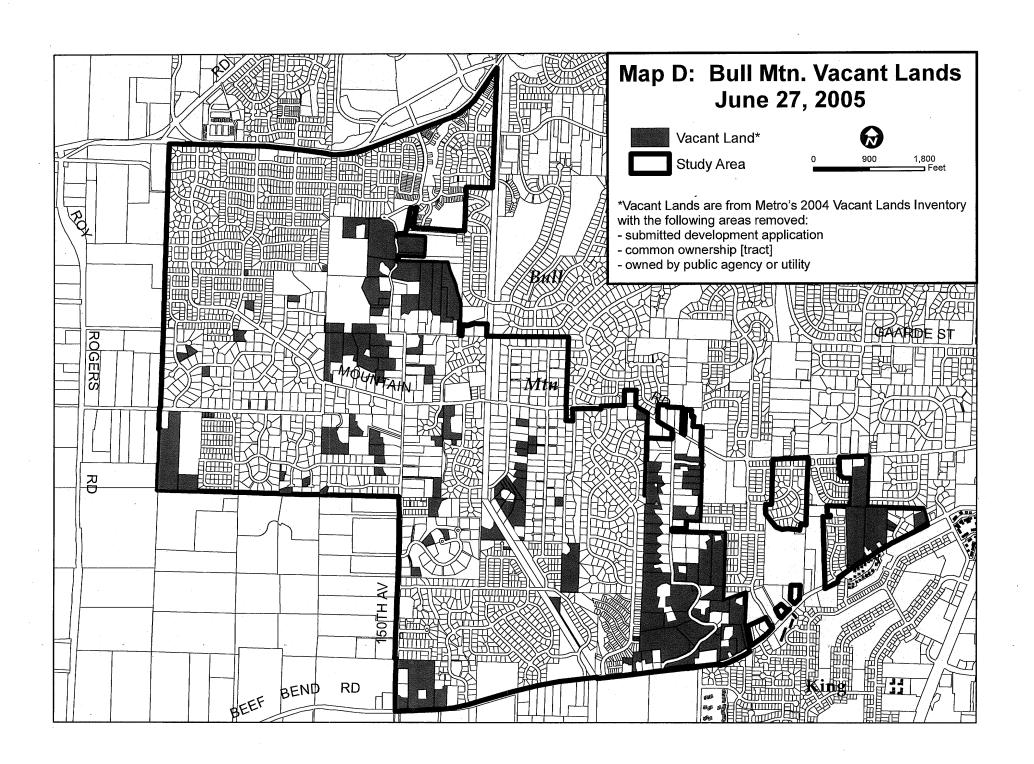
For the purposes of this issue paper, staff has assumed that each of the total number of potential future dwellings within the LID boundary would be assessed for capital and maintenance costs. The total number of potential future dwellings is defined as the number of existing dwellings, plus the total number of parcels that could be created from the existing inventory of vacant land at the minimum required density per acre. This assessment method is the typical method of assessment that the County and CWS have used for other LIDs, such as road and sewer LIDs. This assessment method is based on benefit and is assuming that future dwellings, as well as existing dwellings, will be obtaining benefit from the proposed local improvement. Map D, Bull Mountain Vacant Lands, shows the current vacant lands within the Bull Mountain study area. Under the assessment method described above, the owners of the vacant lands would be assessed for the potential future dwellings that could be placed on the property if it was divided into the number of parcels allowable under the minimum required density per acre. For the purposes of this paper, the assumed minimum density is five dwellings per vacant acre. Based on the park cost estimates in the previous section, the County's Chief Financial Officer has calculated that the LID capital cost per parcel would be \$2,733, if the capital costs were levied equally to each of the total potential future dwellings within the study area

County Counsel has noted that in order for an LID to be legally feasible, there must be demonstrated benefit to each of the residents within the proposed LID boundary. For purposes of this issue paper, staff has assumed that there would be one LID for the capital improvements to provide the parks and open space improvements identified on page 5. However, as discussed in the "Park Needs" section of this paper, sites that are suitable for parks are limited in some sections of the Bull Mountain study area. Therefore, if the development of parks is precluded in some sections of the Bull Mountain study area, it may not be possible to demonstrate that residents of those sections are benefited by the development of parks in other sections of the Bull Mountain area. As a result, depending on what lands are available for park development, a series of smaller LIDs may be needed for each of the proposed parks, rather than one LID for development of all parks within the study area.

County Special Service District

County special service districts (county service districts) are regulated by the requirements of ORS 451. They are county service districts established to provide service facilities in a county or counties. Formation of a county service district is initiated by petition. County service districts include Clean Water Services, ESPD, URMD, and SDL. The proposed Atfalati Recreation District, which was not approved by the voters in 2000, was proposed as a county service district. Unlike a park and recreation district, described below, a county service district does not have a separate board; it is governed by the elected board of the county that establishes the county service district.

A county service district for parks can fund public parks and recreation facilities and recreation programs, including land acquisition, park and recreation facility development, maintenance and operation of facilities, and administration of a recreation services program. A County Counsel memorandum which discusses legal issues associated with the county formation of a county service district for parks will be provided through an update of this paper.



A county service district has several potential means to raise funds, including selling bonds, setting tax rates, forming LIDs, establishing SDCs, or using a combination of these funding approaches to achieve its funding objectives. However, for the purposes of this issue paper, staff has assumed the following: a) that a county service district would achieve its funding objectives by an initial sale of bonds and the setting of tax rates to pay off that debt; and b) that the funding objectives would be park acquisition and maintenance, and would not include recreation programs. Based on these assumptions, and using the estimated capital improvement costs and operations/maintenance costs described in the previous section, the County's Chief Financial Officer calculated the tax rates that would have to be levied on assessed value to cover the annual debt service for both a 10-year and a 20-year bond. For a 10-year bond, a tax rate of \$1.65 per year per \$1000 per year would be required to fund Bull Mountain's park needs; for a 20-year bond, a tax rate of \$1.02 per year per \$1000 would be required. Both of the above tax rate scenarios would be beneath the Measure 5/50 limit of \$10 per year per \$1000 of assessed valuation when added to the existing tax rate of \$5.97 per year per \$1000.

Staff compared the above tax rate with the proposed tax rate for the Atfalati Recreation District, a county service district proposed in 2000 but not approved by voters. The Atfalati Recreation District proposed the funding of park facility construction, maintenance, and recreational programs in the Tigard and Tualatin area. The proposed tax rate was \$0.75 per \$1000 of assessed value. However, approximately 1/3 of the Atfalati expenditures in the proposed budget were to fund recreational programs. Correspondingly, reducing the tax rate by 1/3 to omit the recreational program component would result in a proposed tax rate of \$0.50 per \$1000 of assessed value.

A Bull Mountain county service district for parks, if formed, would differ from the Atfalati Recreation District in a couple of respects. One key difference would be the size of the district—the Bull Mountain area is significantly smaller than the area that was covered under the Atfalati Recreation District. The proposed Atfalati District also included commercial and industrial development, similar to the Metzger Park LID. The other key difference is that staff is assuming that a Bull Mountain county service district for parks would fund park acquisition, development, and maintenance only, and would not fund recreation programs.

Park and Recreation Special Service District

Park and recreation special service districts (park districts) are regulated by the requirements of ORS 266. Districts are municipal corporations formed by communities to provide park and recreation facilities for the inhabitants. Formation of a park district is initiated by petition. An example of such a District is the Tualatin Hills Park and Recreation District.

While the Board of County Commissioners would be the governing board for a county parks LID or a county 451 service district, a park district would be governed by a separate board, independent of the county, and would typically have its own director or general manager. A park district can also fund park land acquisition, park development, park operations and maintenance, and recreation programs.

Like a county service district, a park district has several potential means to raise funds, including selling bonds, setting tax rates, forming LID's, establishing SDCs, or using a combination of these funding approaches. However, for the purposes of this issue paper, staff also has assumed that a park district would achieve its funding objectives by an initial sale of bonds and the setting of tax rates proposed for a county service district. In addition, staff has assumed that the funding objectives would be park acquisition and maintenance, and would not include recreation programs. Based on these assumptions, and using the estimated capital improvement costs and operations/maintenance costs described in the previous section, the County's Chief Financial Officer calculated the tax rates that would have to be levied on assessed value to cover the annual debt service for both a 10-year and a 20-year bond. For a 10-year bond, a tax rate of \$1.65 per year per \$1000 per year would be required to fund Bull Mountain's park needs; for a 20-year bond, a tax rate of \$1.02 per year per \$1000 would be required. Both of the above tax rate scenarios would be beneath the Measure 5/50 limit of \$10 per year per \$1000 of assessed valuation when added to the existing tax rate of \$5.97 per year per \$1000.

Interim County Park SDC

A park and recreation system development charge (SDC) is a method by which new development is charged a fee to fund the acquisition and construction of park and open space land and recreational facilities needed to serve new development. A park SDC cannot pay for the operation and maintenance of facilities, recreation programs and capital improvements to correct existing deficiencies for existing development.

In the spring of 2004, Washington County proposed an interim park SDC for the urban unincorporated Bull Mt. area. The park SDC was based upon the City of Tigard's Park Master Plan and the city's park SDC methodology report and SDC rates. Tigard's Park Master Plan and SDC report both addressed the Bull Mt. area. In March 2005, the Board rejected the proposed park SDC because it no longer reflected Tigard's current park SDC methodology report and rates. Tigard updated both in December 2004 to address increased land acquisition and construction costs.

The county also proposes to amend Policies 15 and 33 of the Framework Plan to make it possible for the county to adopt an interim park SDC in the Tigard and Hillsboro Urban Service Areas. Policy 33 currently requires the designated park provider (Tigard in the Bull Mt. area) to place an *annexation plan* on the ballot before a county park SDC could be adopted. Ordinance 632 proposes to amend Policy 33 to *allow* the county to adopt an interim park SDC for urban unincorporated territory when the identified future park provider has placed or committed to place an annexation measure on the ballot. The public hearing was continued to July 19, 2005 due to ongoing discussions about the Bull Mt. area and pending legislation. If Ordinance 632 is adopted by the Board, a new interim county park SDC, based upon Tigard's new park SDC methodology report and SDC rates, could be considered in the future.

As a practical matter, if an interim county park SDC is approved for the Bull Mountain area, the county won't be able to immediately move forward on park land acquisition, planning or development until such time as sufficient funds for the acquisition, planning and development are collected via the SDC. If a park SDC is approved, it is not clear how quickly funds would

DRAFT ISSUE PAPER NO. 16
Potential Park and Open Space Funding Alternatives
June 28, 2005
Page 23

accrue as this depends on the rate that development occurs. However, it should be noted that the total potential revenue that could be collected from all new development from an interim county SDC would be \$3,753,000, based upon the use of Tigard's updated SDC methodology report and rates. This revenue would fund park improvements that are needed as a result of new development.

Currently, there are approximately 200 vacant acres in the proposed Bull Mt. park service boundary. Assuming a minimum residential density of 5 units per acre¹², the total number of additional future Bull Mountain dwellings would be 1,000. Using Tigard's existing single family SDC rate for the area, \$3,753 for each new residence, an interim county park SDC at this point in time could potentially generate \$3,753,000 over time (assuming full build-out).

wpshare\2005ord\work program\issue papers\Bull Mt\IP 16\IP 16_park funding_final draft 6-28-05

¹² The average density of new development in the Bull Mt. area is 4.8 units/acre.



Washington County

Inter-Department Correspondence

DATE:

June 22, 2005

TO:

banneoanne Rice, Senior Planner

FROM:

retta Skurdahl, Sr. Assistant County Counsel

SUBJECT: PARK LID LEGAL QUESTIONS

This memo responds to legal questions posed in your memo of April 6, supplemented by issues we have discussed since then. I understand you will use this as an attachment to your white paper to the Board of County Commissioners on Bull Mountain park funding options. Please note this is a general summary, based on current statutes and county code, but does not include full legal discussion or complete citations to authority. I understand that you will address separately the estimated cost of various options, and that Chris Gilmore will review limits to the County's role regarding parks as expressed in planning ordinances, policies, or other documents.

LEGAL REQUIREMENTS AND PERMISSIBLE SCOPE OF AN LID. Local Improvement Districts ("LIDS") may be formed under County Code chapter 3.20, for the construction, and maintenance of public improvements. Under county code, the LID mechanism is not available to fund other costs that might be necessary or desirable to provide a complete program relating to parks, such as recreation programs, and park staff other than as needed for operation and maintenance ("O&M") of public improvements. LIDs may not be used to fund private parks, as they are available only for public improvements.

LID Procedure. LIDs may be initiated upon the Board's own motion or by petition by (51%) of property owners. Upon initiation, the Board directs staff to prepare and file a report on the proposed public improvement, including a map, description of the improvement, costs, benefited properties, and a proposed method of assessment. Notice is then provided to all affected property owners, and the Board conducts a hearing and determines whether or not to proceed with improvements. If remonstrances are received from two-thirds of the affected properties, further proceedings must be suspended or terminated. Under county code, an LID for O&M probably would have to be separate from the capital improvement LID. Similar procedures apply to formation of both types of LIDs.

LID Assessments and Benefits. The legal basis for assessments is a determination of benefit to private property, due to construction or O&M of a local public improvement. In general, all private property within the Bull Mountain area - both improved and unimproved could be determined to benefit from new park facilities. If facilities were built, and determined to benefit all properties in the area, it would be legally feasible to charge the entire cost to

Joanne Rice, Senior Planner June 21, 2005 Page 2.

benefited properties. Depending on the circumstances, the Board could choose to create multiple LIDs and assess only the property located close to a particular neighborhood park.

A System Development Charge ("SDC") funding method would have to operate differently, in that it could not charge all benefited property. The SDCs discussed to date for the Bull Mountain area are "improvement" charges, or charges for park facilities to be built. Improvement SDCs may be charged only for the "impact of growth," that is, charged to new development following adoption of an SDC ordinance, not to existing development. The SDC improvement charge may not be used to fully remedy an existing deficiency in parks of the entire area. In contrast to LID funding, however, SDCs could be collected prior to acquisition or construction of park improvements, and would not require interim financing.

2. <u>LID FINANCING/ M5/50 Issues</u>. The legislation implementing Measures 5 and 50 (section 11b, Article XI of the Oregon Constitution), affects LIDs as traditionally used by Washington County. A single assessment for a completed public improvement, which can be repaid over ten or more years, is exempt from the definition of a property tax and thereby exempt from M5/50 tax limits. LID assessments for public park acquisition and improvements could be levied outside the M5/50 limit. However, an LID for purposes of maintaining the facilities (*i.e.*, annual assessments) would not meet the above tests, and would be subject to the M5/50 limit on taxes. To the extent a park LID assessment, plus non-school taxes exceeds \$10.00 per thousand assessed value, taxes in the area would be subject to compression. The County historically has collected assessments for road maintenance LIDs through the tax rolls. (Delinquent installment payments also can be collected in this manner.) While additional legal and financial analysis would be needed to determine the feasibility of an LID for park O&M purposes, this funding method probably is available to the extent it is used solely for operation and maintenance of the public improvement.

If an LID is formed for public park acquisition or capital improvement, I assume the Board would choose to structure the assessments to be within the M5/50 exemption from property taxes. To be exempt, the assessment must occur after the public improvement is completed. This means that interim financing would have to be secured for the cost of acquisition, design, and construction, to be repaid by assessments upon completion of the work. While the cost of interim financing can be recovered through assessments, an initial source of funds would have to be identified. This could be through an internal county loan, or possibly market financing.

3. <u>IMPACT OF ANNEXATION</u>. Assuming that the Local Improvement District public improvement project is complete and assessed as of the date of annexation, the assessments would be liens on the property or assessment contracts in favor of the County. Either type of obligation would be binding on the property owner and would survive annexation. The answer is less clear in the case of an annual assessment for maintenance.

The rationale for levying annual O&M assessments is that the County would maintain responsibility for O&M of the park. Once an area is annexed to a city or district, responsibility for local parks is generally understood to transfer to the city or district. County code contains no

Joanne Rice, Senior Planner June 21, 2005 Page 3.

provision to transfer assessments to a city upon annexation. The O&M funding decision could be complex if part - but not all - of the affected area is annexed, and the remaining area is not sufficient to support the original level of O&M through assessments. If the County intends to proceed with an LID for park maintenance, it is recommended that this issue be addressed with the City. In the most analogous situation, in which the County maintains local roads through MLIDs or the URMD, neither assessments nor property taxes for local roads have been levied by the County following annexation. Under current statutes and county code, maintenance assessments would not transfer from the County to the City upon annexation. If the park itself was transferred to the City, the County would be relieved of maintenance responsibility, and would not continue annual assessments for that purpose.

4. OTHER FUNDING MECHANISMS. The City of Tigard, an ORS Chapter 451 county service district, and an ORS Chapter 266 park and recreation district, could provide funding for park acquisition and operation under certain circumstances. The City does not include the entire Bull Mountain area within its territory. It is beyond the scope of this analysis to detail the extent and limits of the city's authority to act regarding parks outside its boundaries. If property is annexed to the city, Tigard would have the full range of funding options, including property tax, SDC, LID, and user charges. A county service district and park and recreation district would have similar authority, but no such district now exists in the Bull Mountain area.

c: Suzanne Savin Chris Gilmore

05-1189



WASHINGTON COUNTY

OREGON

June 28, 2005

DRAFT PLANNING DIVISION ISSUE PAPER NO. 17

Decreasing Residential Densities in the Urban Unincorporated Bull Mountain Area

Issue

Through the Planning Division's 2005 work program, the Board of County Commissioners (Board) directed staff to prepare seven issue papers about planning and park issues in the urban unincorporated Bull Mt. area. Issue Paper 17 examines the possibility of reducing the existing planned density in the urban unincorporated Bull Mt. area. This issue paper also addresses recent comments from Bull Mt. residents relating to density.

Recommendation

Use planning Alternative 4 to address Bull Mt. residents' request to reduce the current planned densities in the Bull Mt. Community Plan (BMCP). Alternative 4 would update the community plan in conjunction with Tigard's comprehensive plan update and Tigard's planning of the UGB expansion areas.

Staff recommends Alternative 4 because it provides the greatest opportunity to reallocate density from the Bull Mt. area.

Summary

This paper looks at a number of issues associated with density in order to examine how density from urban unincorporated Bull Mt. might be reallocated to another urban area. The areas this paper consider to be potentially available to transfer density to are the City of Tigard and the Bull Mt. UGB Expansion Areas 63 and 64. Tigard said it would consider the possibility of reallocating density to its downtown area by updating the Bull Mt. Community Plan in conjunction with its update of its comprehensive plan.

A review of Washington County's Comprehensive Plan, including the Bull Mt. Community Plan, shows the urban unincorporated area north of Beef Bend Road this is now zoned R-7, was explicitly designated and intended to develop to R-6 densities, five to six units an acre. A review of subdivision applications in the area shows that the average density of these developments to be 4.8 units an acre.

Staff identified four possible alternatives to reduce the existing planned density in the Bull Mt. area. The only county led planning process, Alternative 3, that could potentially lead to reduced densities includes the planning of Areas 63 and 64 where density from Bull Mt. is proposed to be reallocated. However, staff found that if the Bull Mt. area was rezoned to the county's least dense single family land use district, the R-5 District, there could only be a slight reduction in density compared to what is currently permitted under Tigard's R-7 District.

The two city led planning processes, Alternatives 2 and 4, provide the opportunity to transfer density from the Bull Mt. area. Alternative 2 provides the potential to transfer density to Tigard through a combined planning program to update the Bull Mt. Community Plan with the city's update of its comprehensive plan. Alternative 4, which also includes the city planning Areas 63 and 64, provides the best opportunity to transfer density from Bull Mt. because there are two potential areas to reallocate density to, with Areas 63 and 64 likely being able to accept more density than areas in the existing city limits. Each alternative requires the replacement of Tigard's R-7 District with one or more of Tigard's four low density single family districts, the R-1, R-2, R-3.5 and R-4.5 Districts. The density requirements of each of the districts is less than the R-7 District and the county's single family districts, the R-6 and R-5 Districts.

Through staff's analysis of the city and county's density requirements, staff found that the key factor that would determine how much density could be transferred from Bull Mt. is the land use districts that would take the place of Tigard's current R-7 District. The city and county use different methods to calculate density. Tigard's method, which is based upon net buildable area, allows less density than the county's comparable land use districts allow. Consequently, the use of the county's R-6 District would not reduce density and the use of the county's R-5 District would only slightly lower the density.

Another important factor that must be considered is Measure 37. M-37 requires compensation for land use regulations that reduce the value of property when the land use regulation was adopted after the current property owner or family member acquired the property. In lieu of compensation, the government agency that adopted the regulation may waive the regulation and permit development under the prior land use requirement.

Due to M-37, there is no certainty that all properties will develop according to existing or future planned densities. For example, if the density of some parcels in Bull Mt. are reduced through one of the alternatives identified in this paper, the current property owners may have the right to file a M-37 claim under the prior R-7 designation. Citizen desires for lower density might conflict with some property owners desires to maximize their property value. Any planning process to reduce current planned densities should carefully address this issue and involve owners of vacant property early in the process. M-37 makes the density issues on Bull Mt. much more complicated.

Background

At the Board's request, the Planning Division has prepared seven issue papers that address planning and park issues associated with the urban unincorporated Bull Mt. area. Five issue papers address density, parks, planning the Bull Mt. UGB expansion areas, and amendments to the Washington County / Tigard Urban Planning Area Agreement. The seventh issue paper (IP 14) addresses CPO 4B's request for a public facility strategy / development moratorium for the Bull Mt. area.

In December 2004, the Board and the Tigard City Council (Council) held a joint meeting to discuss a number of issues about the Bull Mt. area that had been raised by area residents. The

Board and the Council expressed a desire to work together to develop a planning program that could address residents' concerns, primarily through the upcoming planning efforts of the city. The Council indicated the city would in the near future begin the following planning activities: 1) update the comprehensive plan for its downtown area [underway], 2) update its park master plan, and 3) update its comprehensive plan. At that time the Council also said it may be interested in examining if Bull Mt. density could be transferred to the city through its comprehensive plan update.

At the conclusion of the meeting, the Board directed the county Planning Division to prepare, in consultation with Tigard, issue papers on park planning and funding (Issue Papers 15 and 16), the potential to decrease density in the Bull Mt. area (Issue Paper 17), updating the Bull Mt.

Community Plan (Issue Paper 18) and planning the Bull Mt. UGB expansion areas (Issue Paper 21). The Board also asked staff to include an assessment about how to address these issues in conjunction with Tigard's update of its comprehensive plan and park master plan, and planning the Bull Mt. UGB expansion Areas 63 and 64.

Jim Hendryx, Tigard's Community Development Director, said recently that the Council is interested in doing the comprehensive planning for the UGB expansion areas as well as updating the Bull Mt. Community Plan. This work would include an examination of transferring density from Bull Mt. to the city and the UGB expansion areas. If approved, the city would do this work in conjunction with the city's upcoming update of its comprehensive plan.

The request by many Bull Mt. residents' to reduce planned density in the Bull Mt. area is different than the request by Washington County's Committee for Citizen Involvement (CCI) to allow Washington County's review authority to restrict the density of proposed development between the minimum and maximum allowed densities. For a number of reasons, staff recommended to the Board in Issue Paper 4 that such a restriction should not be incorporated in the Community Development Code (CDC). The Board concurred with staff's recommendation and consequently the proposed change is not considered at this time. Please see Issue Paper 4 for further information about this particular CCI request.

Planning History

The first zoning for the Bull Mt. area was adopted by Washington County in 1959 (northern area) and 1961 (southern area). These areas included what is now the city of Tigard. The first

¹ Beginning in 2003, the CCI identified a number of proposed amendments to the Community Development Code through the Community Participation Organizations (CPO). In early 2005, staff prepared 10 issue papers that addressed the top priorities of the CPOs identified in the CCI's Code Task Report.

² The CDC contains Washington County's development standards and review procedures for new development.

land use districts in the area were F-1 (Agricultural), R-30 (Residential with a minimum lot size of 30,000 square feet) and R-20 (Residential with a minimum lot size of 20,000 square feet). In 1973, Washington County adopted its first comprehensive plan. The comprehensive plan designation for the Bull Mt. area was Urban Intermediate³. The accompanying zoning designation was RS-1 – suburban residential. The minimum lot size of the RS-1 District was 40,000 square feet. However, 20,000 square lots could be created when public water was available with sewer or an approved septic system. In 1983, Washington County adopted a new comprehensive plan, which applied the first urban comprehensive plan and land use designations to the Bull Mt. area. The county's current land use designations, community plans and the CDC were adopted through the 1983 Comprehensive Plan (Comp Plan).

Washington County Comprehensive Plan

In 1983, the county adopted a new comprehensive plan in order to comply with the Statewide Planning Goals and their implementing administrative rules (OARs). Washington County's Comprehensive Plan was acknowledged by the Oregon Land Conservation and Development Commission (LCDC) to be in compliance with the Statewide Planning Goals and OARs on October 7, 1983. LCDC also found the Comp Plan to be in compliance with these requirements when LCDC's completed its periodic review of it in the early 1990s. The Comp Plan continues to apply today to unincorporated Washington County, except in the Bull Mt. area where Washington County adopted Tigard's comprehensive plan.

The Comp Plan addresses all of unincorporated Washington County, including the rural and urban unincorporated areas. The Comp Plan includes eleven community plans, including the BMCP, covering urban unincorporated Washington County. For many areas of the county, including the Bull Mt. area, the Comp Plan applied the first urban land use designations to those areas.

Key elements of the Comp Plan are:

- Comprehensive Framework Plan for the Urban Area (Framework Plan)
- Community Plans
- Rural/Natural Resource Plan
- Community Development Code (CDC)
- Transportation Plan

The Framework Plan addresses the present and future needs of urban unincorporated Washington County. It established the countywide policies and strategies that are the framework of the county's urban land use program. The community plans carry out the Framework Plan's countywide policies and strategies to specific geographic areas. The CDC implements the Framework Plan, the Transportation Plan and certain community plan requirements through the creation of development standards and review procedures that are designed to apply countywide.

³ The Urban Intermediate Comprehensive Plan designation was applied to areas of the county designated to be developed to urban densities over a 20 to 40 year time frame.

Bull Mountain Community Plan

The BMCP plan addresses the urban unincorporated areas between Barrows Road and the Tualatin River. Although the title of the community plan is Bull Mt., it also addresses the unincorporated area south of Beef Bend Road more commonly referred to as the King City area. The estimated 1980 population of the plan area was 2,158 and the original community plan boundary contained 2,047 acres. More than half of the area was determined to be buildable – 1,290 acres⁴.

At the time the BMCP was adopted, the Bull Mt. Community Planning Area was considered to be largely undeveloped. The BMCP characterized the area as:

"The Bull Mountain Community Planning Area is largely undeveloped at this time. Some large lot residential subdivisions are scattered along the crest of the mountain off Bull Mountain Road; a few more exist along SW 150th Avenue and at the foot of the north slope around Fern Street. Mobile homes and multi-family dwellings are located south of Fischer Road. The only commercial activity in the Planning Area is located along Pacific Highway southeast of King City. There is no industrial activity. Most of the area - almost 90 percent of the buildable land - consists of farms, forests, vacant land and rural homes."

The urban unincorporated Bull Mt. area is identified by the BMCP as the Summit and Slopes Subarea. Most of the area north of Beef Bend Road was designated R-6. However, higher densities were placed along the arterial corridors in the area to take advantage of these roads and possibly future bus service. The corridor south of Barrows Road was designated R-24, R-15 and R-9 and a small area on the north side of Beef Bend Road was designated R-15. The Summit and Slopes states: "the land form between SW Beef Bend Road and Scholls Ferry Road is designated primarily for low density residential use at a maximum of 6 units per acre." The land use designations in the area south of Beef Bend Road, identified as the Southern Lowlands Subarea, were all higher residential districts – R-9, R-15, R-24⁵.

Table A (page 6) shows the distribution of the land use designations in the original community plan boundary. A copy of the original community plan map is shown on page 7.

Since 1983, the land use designation of only one property in the original BMCP boundary has been changed. The Neighborhood Commercial site at the southeast corner of the Beef Bend/131st intersection was changed to R-15. Since 1983, a significant number of properties have annexed to Tigard and King City. Beginning in 1986, 589 acres north of Beef Bend Road have annexed to Tigard and 364 acres south of Beef Bend Road have annexed to King City. Since 1983, the BMCP was amended to incorporate land that Metro added to the Urban Growth Boundary (UGB). Currently, in the area north of Beef Bend Road there are approximately only 200 vacant acres 6, compared to more than 1000 acres in 1986.

⁴ Excluded power line easements, drainage areas and steep slopes.

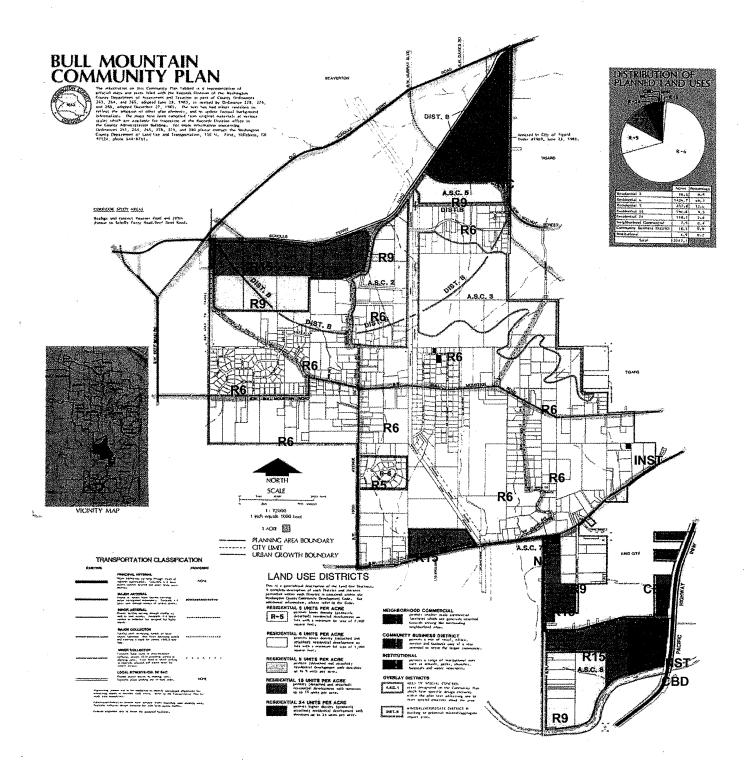
⁵ The 1983 Comp Plan created four multi-family land use districts. The density requirements of each district are: R-9 (7 - 9 units/acre); R-15 (12 - 15 units/acre); R-24 (19 - 24 units/acre); R-25 (20 - + 100 units/acre

⁶ Properties with an approved or pending development application were not considered to be vacant.

Table A
Distribution of Land Use Designations
in the 1983 Bull Mt. Community Plan

	ALL Bull Mt.	NORTH Bull Mt.	SOUTH Bull Mt.
Land Use District			
Residential 5	18.3	18.3	
Residential 6	1426.7	1426.7	
Residential 9	257.8	165.8	92.0
Residential 15	194.8	130.6	64.3
Residential 24	118.1	84.1	34.0
Residential 25#			
Office Commercial			
Neighborhood Commercial	7.9		7.9
Community Business District	18.5		18.5
General Commercial			
Industrial			
Institutional	4.9	2.5	2.5
Total Acres	2047.0	1827.9	219.1

Bull Mt. Community Plan 1983 Land Use Designations



Twice land was added west of 131st Avenue and south of Beef Bend Road. The majority of this area has since annexed to King City. Most recently, in 2002, Metro added 484 acres west of the original boundary of the BMCP, between Scholls Ferry and Beef Bend Roads. This area is currently designated FD-20 – Future Development 20 acres. The future planning of this area is discussed in Issue Paper 18. A map of the current status of the BMCP is on the following page.

State and Regional Planning Requirements

The comprehensive plans of all of Oregon's counties and cities must comply with the Statewide Planning Goals, including Goal 10 – Housing and Goal 14 – Urbanization. They require constrained urban growth boundaries, more efficient use of urban land in order to protect farm and forest land, and more cost effective and efficient use of public facilities and services. The result includes smaller lots, more attached dwellings and more compact development.

In the Portland Metro Area, counties and cities must also comply with the Metropolitan Housing Rule⁷ and Metro's Urban Growth Management Functional Plan (Functional Plan). The Metro Housing Rule contains specific Goal 10 implementation requirements for the Portland Metro area. Title 1 of the Functional Plan includes housing requirements for the accommodation of future housing until 2017. Key requirements of the Metro Housing Rule and Title 1 are described below.

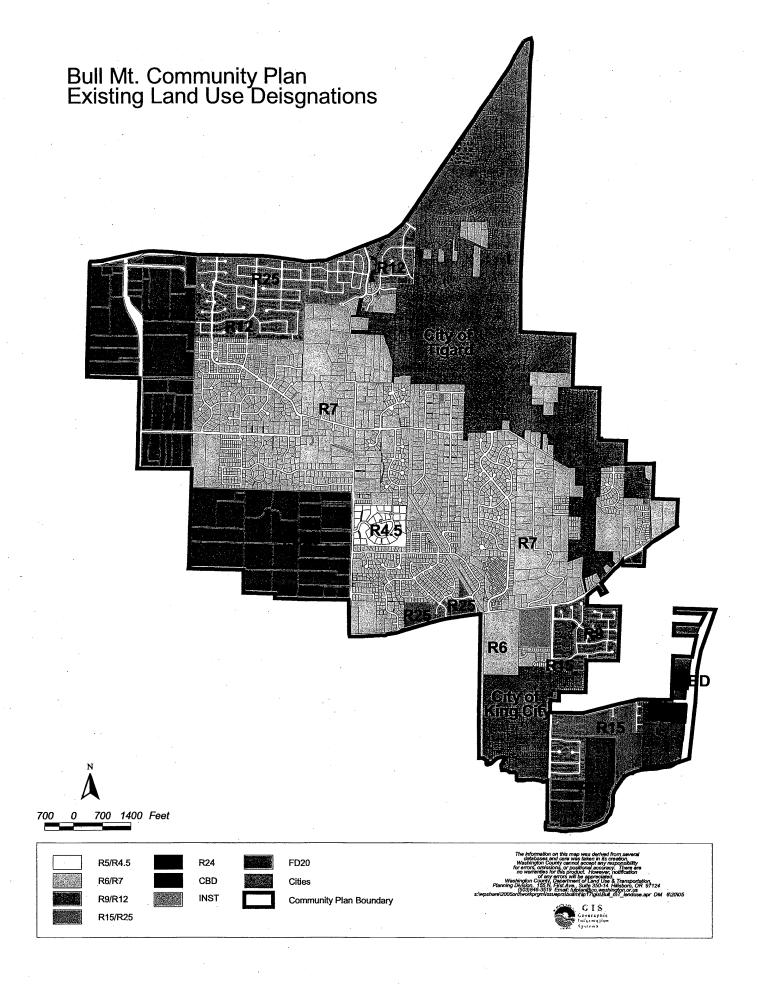
Metropolitan Housing Rule

Key requirements for Washington County and cities with a population of 2,500 or more persons:

- Washington County and its cities must provide the opportunity for at least 50% of new residential dwellings to be attached single family (town house) or multi-family housing (apartments). This requirement will be referred to the "50:50 split" in this paper.
- The overall minimum density requirements for vacant land that Washington County and its cities must provide for:
 - Tigard, Hillsboro and Beaverton ten dwellings units per net buildable acre
 - Urban unincorporated Washington County eight dwellings units per net buildable acre
 - Forest Grove, Tualatin and Wilsonville eight dwellings units per net acre
 - Cornelius, Durham and Sherwood six dwellings units per net acre

The geographic areas within which the county and each city had to meet the rule's required overall minimum density requirements were defined in 1980. The rule requires that as properties are annexed to a city over time, the county's minimum density requirement for those properties must be maintained by the city. The rule does not require Beaverton, Hillsboro and Tigard to add two additional dwelling units per acre of annexed property. Conversely, as properties annex to a city with a density requirement less than eight units/acre, such as King City, the city must maintain the *county's* minimum density so that there will not be an overall loss of planned density in the county.

⁷ Oregon Administrative Rule 660-007



The 1983 Comp Plan was developed to comply with the Metro Housing Rule. To provide an average density of eight dwelling units per net vacant acre, the overall planned density of urban unincorporated Washington County had to be increased. To do this, the county increased the overall density of its single family land use districts and increased the density of many areas of the unincorporated area.

Comp Plan Growth Allocations

Based upon the requirements of the Metro Housing Rule and future needs for commercial and industrial uses, the county developed a countywide growth allocation for residential, commercial and industrial uses based upon the initial planning analysis prepared by staff and then approved by the Board of County Commissioners. The allocations were applied to the various communities in the urban unincorporated area, now known as community planning areas. The county used a deliberate and comprehensive public process to develop the growth allocation and then again when it was carried out through the development of individual community plans. The analysis to develop the growth allocation considered a number of factors, including the amount and location of existing vacant land, the general natural character of areas (topography, flood plain, drainage hazard areas), transportation accessibility, and the prevailing character of each area and surrounding communities.

The community planning areas that were allocated the most density were areas:

- with large amounts of vacant land
- located within close proximity to:
 - major transportation corridors (e.g., Hwy. 26, TV Hwy., 185th Ave., Scholls Ferry Road)
 - corridors with the best opportunity for transit service (bus and light rail)
 - employment and shopping areas
- with limited constrained lands (flood plain, drainage hazard areas, slopes of 25% or more)
- areas generally with flat or moderate slopes.

The community planning areas with the most vacant land were Aloha-Reedville-Cooper Mt. with 3,012 acres, Sunset West with 4,238 acres and Cedar Hills-Cedar Mill with 2,055 acres. They were also the planning areas that were allocated the most residential dwellings units' Sunset West with 20,634 units, Aloha-Reedville-Cooper Mt. with 19,648 units, and Cedar Hills-Cedar Mill with 12,711 units.

The community planning areas with the highest multi-family dwelling unit allocation were the Sunset West, Aloha-Reedville-Cooper Mt., and Cedar Hills-Cedar Mill planning areas. They accounted for 80% of the total multi-family units in the urban unincorporated area and 42% of *all* dwellings units in the urban unincorporated area.

Although the Bull Mt. planning area had a significant amount of vacant land, its overall allocation was relatively small due to the steep slopes north of Beef Bend Road. With a total of 1,285 vacant acres of residential land, the final allocation to this planning area was 10,652 dwelling units. The density distribution in the Bull Mt. planning area placed the majority of the dwellings in the two arterial corridors in the area, Barrows and Beef Bend Road, and in the flat

lands south of Beef Bend Road through the designation of multi-family units in these less steep areas. The steepest areas in the planning area were designated low density residential with development at no more than 6 units per acre. The residential allocation to the planning area is:

Area North of Beef Bend Road

•	Low density residential (R-6)	708 vacant acres	2,658 dwelling units		
•	Multi-family residential	381 vacant acres	5,334 dwelling units		
	(R-9, R-15, R-24)				
	Subtotals	1,089 vacant acres	7,992 dwelling units		
<u>Ar</u>	rea South of Beef Bend Road				
•	Low density residential	0 vacant acres	0 dwelling units		
•	Multi-family residential	190 vacant acres	2,660 dwelling units		
	(R-9, R-15, R-24)				
	Subtotals	190 vacant acres	2,660 dwelling units		
	TOTALS	1.279 vacant acres	10,652 dwelling units		
	TOTTLES	1,=	10,002 4 011115 411116		

The allocation breakdown in the Bull Mt. planning area is: North area

• Low density residential: 33% of units in the north area, 25% of total units in planning area

• Medium density 67% of units in the north area, 50% of total units in planning area

South area

Low density residential: no allocation

Medium density
 100% of units in the south area, 25% of total units in planning area

The land use designations north of Beef Bend Road resulted in an overall planned density of vacant lands in the area at approximately *six* units/acre. These designations also did not provide the opportunity for 50% of new dwellings in the to be town houses, condominium or multifamily dwellings. The higher densities on vacant land south of Beef Bend Road resulted in an overall density of approximately *12* units/acre in the area and provided the opportunity for all new dwellings to be attached units

1983 Comp Plan Residential Land Use Designations

The Comp Plan created six urban residential land use districts to take the place of its previous 12 residential districts. The districts created by the Framework Plan, which are applicable today, are:

- R-5 residential with no more than five dwellings per acre
- R-6 residential with no more than six dwellings per acre
- R-9 residential with no more than nine dwellings per acre
- R-15 residential with no more than 15 dwellings per acre
- R-24 residential with no more than 24 dwellings per acre
- R-25+ residential with no more than 100 dwellings per acre

The R-5 and R-6 Districts are commonly referred to as single family districts and the four other districts were referred to as multi-family districts until the advent of "small lot" single family dwellings. Today, the R-9 and R-15 Districts include a large number of this housing type.

The R-5 District was created to apply to existing single family neighborhoods that were selected for low residential densities and were previously zoned RU-2, RU-4 or P-R⁸. These neighborhoods are located predominantly in Cedar Hills, Cedar Mill, Raleigh Hills, Garden Home, Metzger, Rock Creek and parts of Aloha and Reedville. One existing subdivision in the original boundary of the BMCP was designated R-5.⁹ The maximum density in the R-5 District is five dwellings per acre. Its minimum lot size was 7,000 square feet prior to the establishment of minimum densities. The R-5 District's current minimum lot size is 5,500 square feet.

The R-6 District was created to be applied to areas selected for the lowest residential densities that were not previously zoned RU-2, RU-3, RU-4 or P-R and that had been designated Urban Intermediate by the 1973 Comprehensive Plan. The Framework Plan characterizes the purpose of the R-6 District as providing new residential density at "relatively low densities in developing residential areas in which no predominant urban character has been developed. Residences in this district shall occur at a density of five to six units per acre."

References to "low density residential" in the Framework Plan and the community plans are made in the context of the six residential districts created in 1983, with low residential density meaning densities at five and six units per acre. In the community plans, the R-5 and R-6 Districts are both referred to as "low density residential."

As noted above, the majority of the increase in density in unincorporated Washington County came about through the designation of large areas of the county as R-9, R-15, R-24 and R-25+. In some areas, such as parts of Aloha, Reedville, Cedar Mill and Cedar Hills, the county increased the residential density of previous residential areas to provide for more housing (increased to R-9, R-15, R-24 and R-25+). In other areas of the county that had not been previously designated as urban due to the lack of sewer and water, the R-9, R-15, R-24 and R-25+ Districts were applied. These designations were generally located along existing and future transit routes, including the first proposed light rail corridor, and along collectors and arterials. These areas are located primarily in Bethany, Bull Mt., King City, East Hillsboro and Sunset West. Areas that were designated with higher densities included areas with steeper slopes. For example, in the Cedar Hills-Cedar Mill Community Plan, the area east of Leahy Road, between Highway 26 and the county boundary, was designated R-9, R-15 and R-24.

Areas of the county that were planned as new single family neighborhoods were designated primarily as R-6. These areas are located in the Bethany, Bull Mt., and Sunset West Community Plans. New R-6 areas included areas with steeper slopes – Bull Mt., Cooper Mt. and the north

⁸ RU-2 = Urban Residential District – low density, minimum lot size of 15,000 sq. ft.; RU-3 = Urban Residential District – medium - low density, minimum lot size of 10,000 sq. ft.; RU-4 = Urban Residential District – high-low density, minimum lot size of 7,000 sq. ft.; P-R = Planned Residential

⁹ Located along SW Hawk Ridge Road, east of SW 150th Avenue

east corner of the CH-CM community plan. Slopes in Cooper Mt. and the CH-CM community plan are similar to or steeper than the slopes in the Bull Mt. area.

Table B on page 14 summarizes the land use designations of the original community plan boundaries with residential designations.

The Statewide Planning Goals and the Metro Housing Rule continue to apply today. When the county or a city considers an amendment to their comprehensive plan that affects residential densities, each must make findings that the proposed change is consistent with the housing rule.

Metro's Urban Growth Management Functional Plan

Title 1 of the Functional Plan assigned a future housing target to each county and city in the Portland area. Title 1 required Washington County to provide for 54,999 dwelling units in the urban unincorporated area. That assignment required the county to provide for an additional 11,000 dwelling units. The housing target of each local government was based upon the 1996 jurisdictional boundaries and populations. As properties are annexed to a city, the county's housing assignment for that area follows it into the city, the same procedure used by the Metro Housing Rule. Another Functional Plan requirement was the establishment of *minimum* densities in residential districts at no less than 80% of each maximum density.

In 2000, Metro found that the county "substantially complied" with the Title 1 requirements through the amendments the county made to the 1983 Comprehensive Plan. The amendments resulted in the provision of 51,751 future dwellings. Listed below is a description of the changes the county made to the Comp Plan to accommodate those dwellings.

- October 1997 adopted plans for Light Rail Station Areas and the Cedar Mill Town Center, which resulted in higher densities. New residential transit oriented districts (TO Districts) were created with a range of densities between 9 to 120 units per acre. These areas are located in Aloha, Cedar Hills, Cedar Mill, East Hillsboro and Sunset West.
- October 1998 established minimum densities in the R-9, R-15, R-24 and R-25+ Districts
- September 2000 established minimum densities in the R-5 and R-6 Districts¹⁰
- May 2003 applied the county's most comparable TO Districts in the Metzger Community Plan to implement the Washington Square Regional Center Plan.

¹⁰ Tigard's minimum density requirements for its residential districts became effective on November 26, 1998.

Table B
Distribution of Land Use Designations
in the 1983 Washington County Community Plans

			ALL	NORTH	SOUTH			-		10	
	Aloha	Bethany-	Bull Mt.	Bull Mt.	Bull Mt	Cedar Hills	Hillsboro	Metzger	Raleigh	Sherwood	Sunset
Land Use District											de table de la company de la c
Residential 5	3434.0	80.4	18.3	18.3		2670.5	72.6	642.0	1846.6		1336.8
Residential 6	1677.6	1014.7	1426.7	1426.7		917.0				404.5	1550.8
Residential 9	998.0	445.9	257.8	165.8	92.0	526.1	2054.9	64.5	106.4	372.7	278.1
Residential 15	684.8	237.8	194.8	130.6	64.3	349.4	304.5	39.4	70.8	138.3	597.5
Residential 24	390.7	129.8	. 118.1	84.1	34.0	117.7	103.5	33.2	101.0	42.5	78.2
Residential 25+	61.3					225.9		9.2	4.2		17.0
Office Commercial	71.2					17.7		65.1	29.7		234.1
Neighborhood Commercial	55.0	2.0	7.9		7.9	136.8	18.9	8.2	1.0		22.3
Community Business District	76.3	15.0	18.5		18.5	21.4	48.2	145.1	83.4	21.2	87.6
General Commercial	21.8					189.6		5.1	44.0	40.9	8.3
Industrial	179.0					352.9	1225.4			178.9	1343.5
Institutional	300.3	10.1	4.9	2.5	2.5	465.1	169.4	123.8	410.1	19.3	839.8
Total Acres	7950.0	1935.7	2047.0	1827.9	219.1	5990.1	3997.4	1135.6	2697.2	1218.3	6394.0

Two unincorporated areas where the county did *not* increase residential densities as it originally planned to do were the Bull Mt. and Metzger areas. At Tigard's request, the county did not change the existing land use designations of vacant properties in the Bull Mt. area to a district with a higher density (R-9, R-15) to provide the 302 additional dwellings units that had been proposed to be provided in the area. In the Metzger area, Tigard assumed responsibility for 668 additional dwellings that had been assigned to be provided in the Washington Square Regional Center Plan through the upzoning of R-5 land.¹¹

Metro's Functional Plan requirements also continue to apply today. Amendments to the county's or a city's comprehensive plan must be shown to comply with the Functional Plan, including Title 1.

County 2000

In 1986, after the adoption of its 1983 Comprehensive Plan, Washington County adopted the *County 2000 Strategic Plan*. ¹² County 2000 directs how the county will provide services, including planning and land development. County 2000 changed our focus. Rather than providing both localized and countywide services, County 2000 calls for the county to provide countywide services (e.g., health, aging and veteran services; maintain and operate a countywide road system) and move away from municipal types services (e.g., maintaining the local street system, neighborhood level planning). Consequently, the county's long term policy for the urban unincorporated areas calls for these areas to be eventually served by a city so the county can focus its limited resources to provide countywide services.

County 2000 changed the focus of the county's long range planning services from neighborhood level planning (e.g., updating community plans) to participating in countywide, regional and state planning activities. Updating community plans is a municipal level service and under County 2000 as a matter of course, the county does not update community plans. *Consequently, the county has not updated any community plan since their adoption*. Instead, the county has made limited amendments to the community plans over the years to comply with regional and state planning requirements - Metro's Functional Plan (Light Rail Station communities, regional and town centers), the Regional Transportation Plan and the State Transportation Planning Rule. A county planning process to update a community plan would not be consistent with County 2000.

Washington County Transfers Land Development and Building Services to Tigard
Consistent with County 2000 and the Washington County / Tigard Urban Planning Area Agreement
(UPAA)¹³, the county transferred responsibility for land development, building and code enforcement services for the urban unincorporated Bull Mt. area to the city of Tigard on May 12, 1997.¹⁴
Washington County maintained responsibility for comprehensive planning and transportation planning in the area.

¹¹ The regional center is comprised of properties in Tigard and Beaverton and unincorporated properties. Tigard was designated as the lead planning agency for this planning effort.

¹² County 2000 was updated in 1990 and 1996. A third update of County 2000 is currently underway.

¹³ The UPAA included a requirement that the county and Tigard study the feasibility and cost effectiveness of assigning land use planning and building services to the city.

¹⁴ Implemented by the Urban Services Intergovernmental Agreement between City of Tigard and Washington County (Service IGA). It was renewed September 3, 2002.

The county adopted Ordinance No. 487 in October 1996 to facilitate this transfer. By Ordinance No. 487, the county replaced the land use designations in the BMCP with Tigard's comparable comprehensive plan and zoning designations. For example, the county's R-6 District was changed to Tigard's R-7 District and the R-5 District was changed to Tigard's R-4.5 District. Ordinance 487 also adopted Tigard's comprehensive plan and development code in place of the county's Framework Plan and the CDC. The text and other map designations in the community plan, such as the Significant Natural Resource designations, were not changed and they continue to apply today. Ordinance 487, however, did not amend the county's regulations for Goal 5 resources. The county's Goal 5 designations and implementing development standards in the CDC continue to apply.

Through the adoption of Ordinance 487 the county determined that, although there might be slight variations in densities permitted under Tigard's zoning districts and development standards, the city and county's comprehensive plan, land use designations and development regulations were functionally equivalent. Therefore, development under Tigard's R-7 District is lawful.

County and City Density Requirements

Washington County and Tigard use different methods to calculate minimum and maximum required densities. The required minimum and maximum densities for Tigard's residential districts, including the R-7 District, are based upon net acreage. Tigard requires several types of land area to be excluded when calculating net acreage, including Sensitive Lands (100 year flood plain, slopes greater than 25%, wetlands, drainage ways), private streets, and public rights of way (e.g., power line easements, 20% of gross acreage for streets). Tigard's development code allows up to 25% of the density from these unbuildable or constrained areas to be transferred to a site's buildable area provided the density of that area is not increased more than 25%.

The county calculates its minimum and maximum residential densities based upon the gross acreage of a site. The county's CDC allows all of the density from constrained areas to be transferred provided the transferred density does not more than double the density allowed on the buildable portion of the site. For example, the maximum density of one residual net acre of developable R-6 land can be increased to 12 dwelling units through the transfer of density from constrained areas. Due to the different methods the county and Tigard use to calculate density there is no simple, direct way to compare permitted densities under the city county standards, particularly since the county allows more density to be transferred from constrained areas.

The county's R-6 District and Tigard's R-7 District's standards for minimum lot area and attached single family dwellings are also different. The R-6 District allows attached dwellings as a permitted use. The R-7 District only allows up to five attached dwellings per building as a permitted use; six or more units per building must be approved as a conditional use (public hearing required). In the R-6 District, the minimum lot area for a detached single family dwelling is 4,000 square feet compared to 5,000 square feet in the R-7 District. The minimum lot area for attached single family dwellings in the R-6 District is 3,500 square feet compared to 5,000 square feet in the city's R-7 District. The county's smaller lot sizes and allowance of all attached single family dwelling units as permitted uses makes it easier to achieve the R-6 District's maximum density of six units per acre, particularly on sites with steep terrain and/or drainage hazards areas.

Concerns have been expressed by citizens that some new development in the Bull Mt. area is being built at a density of seven units per acre, more than permitted by the original R-6 District. In order to compare permitted densities under the R-7 and R-6 Districts, staff reviewed the 17 subdivision applications for detached single family dwellings submitted to the city since 2002. Twelve applications have been approved and five are currently under review. All of the approved or proposed number of dwellings for each subdivision are consistent with the minimum and maximum densities requirements of the R-6 District. The total average density of the 17 subdivisions is 4.8 units/acre, which is consistent with the R-6 District considering the drainage hazard areas and steep slopes that traverse part of the area. Seven subdivisions were required to have fewer dwellings than would have been permitted under county standards. Three subdivision's were permitted to have one or two additional dwellings under the city's standards compared to what would have been allowed by the county's standards. They are: Summit Ridge Phase 4, Valley View and Trevor Ridge. Each development site did not have steep slopes or drainage areas. Under the R-7 District, the maximum permitted densities on the Valley View and Trevor Ridge sites are less than seven units per acre. The maximum permitted density of the Summit Ridge Phase 4 is eight units per acre. The density of Phase 4 is higher because it is a continuation of Phases 1, 2 and 3, a very unique situation that rarely occurs. In all three instances, the developers chose not to build the maximum permitted number of dwellings.

Due to the presence of drainage hazard areas and some steep slopes in the other four subdivisions, the county's and city's standards cannot be directly compared as the others are in the preceding paragraph. Under the county's standards, the applicants' could have transferred all of the density from the constrained areas to the buildable area of each sites. Consequently, the permitted minimum and maximum densities for these sites under the R-6 District are higher than under the city's R-7 District. However, the county's standards allow an applicant to chose to build fewer units based upon these constrained areas.

A comparison of the city and county's density requirements for each development is shown in Table C on page 20.

Staff also compared the density requirements of county's other single family district, the R-5 District. Its minimum required density is four units an acre and its maximum density is five units per acre. As shown below, the total number of approved dwellings is less than the maximum number of dwellings that would be permitted by the R-5 District.

Tigard's R-7 District:

- Density/acre of approved/pending developments
- Required minimum density
- Maximum permitted density

4.8 dwellings/acre (591 total dwellings)

- 4.4 dwellings/acre (535 total dwellings)
- 5.5 dwellings/acre (672 total dwellings)

Washington County's R-6 District:

- Required minimum density
- Maximum permitted density

5 dwellings/acre (611 total dwellings)

6 dwellings/acre (733 total dwellings)

Washington County's R-5 District:

• Required minimum density

• Maximum permitted density

4 dwellings/acre (488 total dwellings)

5 dwellings/acre (611 total dwellings)

Expansions to the Urban Growth Boundary

In 2002, Metro made a major expansion to the UGB. Title 11 of the Functional Plan requires that the future comprehensive plan designations for these areas result in an average minimum net density of ten dwelling units per acre. Some of the area that that was added to the UGB has areas with slopes similar to those in Bull Mt. See Issue Paper 21 for information about the Bull Mt. UGB expansion areas.

Measure 37

Measure 37 (M-37) was approved by Oregon voters in November 2004. M-37 requires compensation for land use regulations that reduce the value of property when the land use regulation was adopted after the current property owner or family member acquired the property. In lieu of compensation, the government agency that adopted the regulation may waive the regulation and permit development under the prior land use requirement.

In order to determine how current property owners in Bull Mt. might respond to changes that would reduce the current permitted residential densities of their properties, staff examined the following indicators: M-37 election results from the area, current land values, recent development activity, and current M-37 claims.

Precinct Election Results

Voters in the three precincts that cover the Bull Mt. area supported M-37 (see map on page 21). The election results are provided below. The average voter turn out in the precincts was 84% of registered voters. A map of the precincts is provided on page 20. M-37 had the highest approval rate in Precinct 414, which has the most vacant land.

Precinct 397		<u>P</u>	recinct 41	<u> 10 </u>	Precinct 414		
Yes	1421 62%	$\overline{\mathbf{Y}}$	es 929	61%	Yes	708 65%	
No	862 38%	N	o 591	39%	No	381 39%	

Current Land Values

Land values in the Bull Mt. area have increased over the past several years as they have all over the Portland Metro area. According to the Appraisal Division of the Washington County Department of Assessment and Taxation, the average value of vacant land in the Bull Mt. area has increased from \$175,000 an acre in January 2002 to \$300,000 /320,000 an acre in June 2006, a 71% to 83% increase. Staff from the Appraisal Division said that due to today's market conditions, land values are changing generally every six months. They also said the densities permitted by the applicable land use districts affect the value of vacant land with more density resulting in higher values.

¹⁵ January 2003 average value: \$229,000/acre, January 2005 average value: \$282,000

Recent Development Activity

Since 2002, 17 subdivision applications have been submitted for development in the urban unincorporated Bull Mt. area north of Beef Bend Road. Five applications were submitted in 2002 and 2003. Eight applications were submitted in 2004 and four applications have been submitted so far in 2005. These applications accounted for 122 acres. In addition, Tigard has held four recent preapplication conferences with property owners or prospective applicants for another 36 acres.

Since 1983, when the community plan was adopted, more than 80% of the vacant land north of Beef Bend Road has developed. Today there are approximately 200 acres of vacant land in this area¹⁶. If the total vacant acres were adjusted based upon recent pre-application conferences, there would be approximately 164 vacant acres available for development.

M-37 Claims

Washington County has received more than 250 M-37 claims through June 17, 2005. One claim was filed to allow additional dwelling units on a property designated R-5. The remaining claims are almost entirely for rural properties and are mostly for the construction of additional dwellings that were purported to be permitted by the prior land use designation in effect when the property owners purchased the property. The City of Portland has received several claims for the purported loss of residential dwelling units due primarily to the city's environmental overlay regulations (e.g., tree and habitat protection). The absence of claims in urban unincorporated Washington County seems to indicate that property owners do not view minimum density requirements as reducing the value of their property.

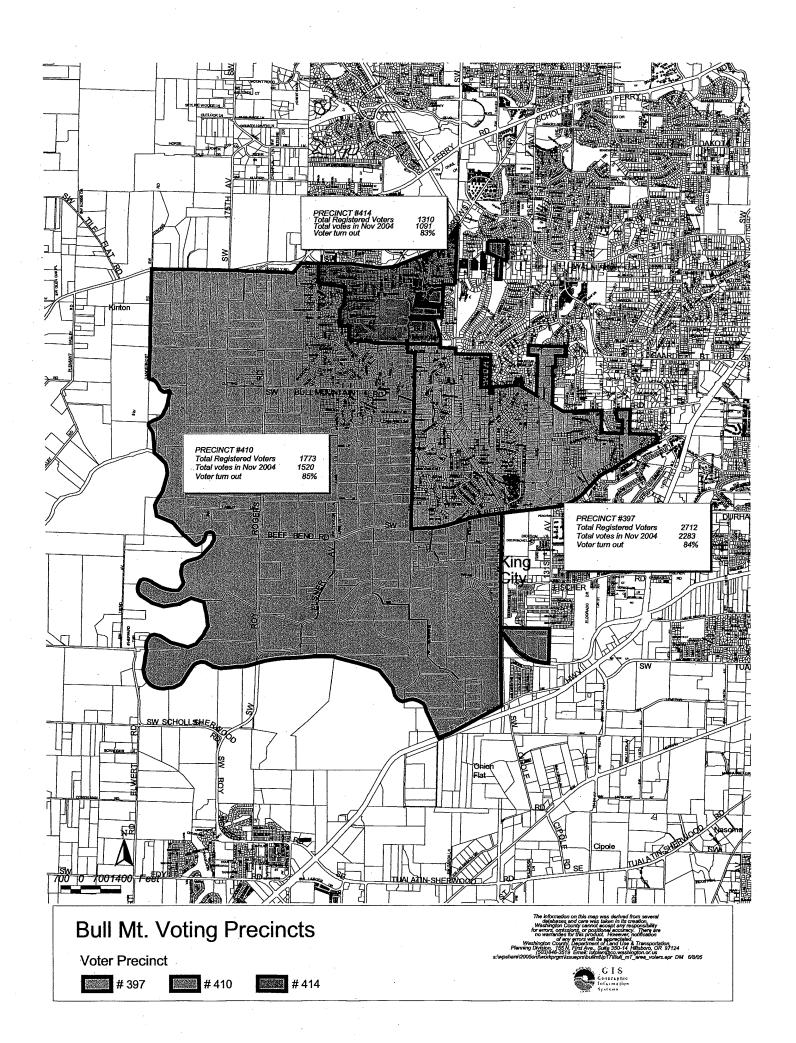
Due to M-37, there is no certainty that all properties will develop according to existing or future planned densities. For example, if the density of some parcels in Bull Mt. are reduced through one of the alternatives identified in this paper, the current property owners may have the right to file a M-37 claim under the prior R-7 designation or even under the earlier R-6 designation.

The four indicators that were examined show there may be a high propensity for existing owners of vacant property to desire to develop or sell their property at existing densities. A possible M-37 scenario that could result through the reallocation of Bull Mt. density to another area is the filing of M-37 claims by Bull Mt. property owners who had the density of their properties reduced and thus lost value. If this were to occur, *more* density might be provided in the community than existed before the changes. Therefore, any study to reduce the planned density in the Bull Mt. area should include an analysis of ownership and land use regulations to determine potential impacts from M-37. In order to reduce potential future M-37 claims, owners of vacant properties and properties with the potential to redevelop should be involved very early in any planning process to determine if they desire the density of their property to be reduced, particularly in light of the indicators discussed above.

¹⁶ Based upon Metro's 2004 Vacant Lands Inventory

Table C – Density Comparison

					COUNTY R-6 DISTRICT			
PROJECT NAME	Tigard Development File No.	Dev. File Status	Acres	No. of Lots approved/proposed through Tigard's R-7 District	Minimum No. of Required Lots (5 units per gross acre)	Maximum No. of Lots Permitted (6 units per gross acre)		
Tuscany	2002-00001	Approved	15.16	89	76	91		
Bella Vista	2002-00007	Approved	9.29	4 5	46	56		
Ironwood Subdivision	2002-00008	Approved	1.22	6	6	7		
Summit Ridge Phases 1-3	2003-00009 (Phase I & 2) 2004-00003 (Phase 3)	Approved	27.46	. 130	137	. 165		
Meyers Farm II	2003-00014	Approved	8.16	44	41	49		
Valley View	2004-00001	Approved	4.91	25	25	29		
French Prairie Vineyards	2004-00004	Approved	5.7	30	29	34		
Arbor Summit 1 & 2	2004-00008 2004-00013	Approved	8.83	42	44	53		
Mountain View Estates	2004-00021	Approved	6.94	19	35	42		
Trevor Ridge	2004-00022	Approved	1.34	8	7	8 .		
Alpine View	2004-00064	Pending	8.69	46	43	52		
Summit Ridge Phase 4	2005-00002	Pending	0.75	5	4	5		
Wilson Ridge	2005-00003	Pending	2.68	14	13	16		
Arlington Heights 3	2005-00007	Pending	16.82	64	84	101		
Sierra Park	2005-00008	Pending	4.19	24	21	25		
TOTAL			122.14	591	611	733		



DRAFT ISSUE PAPER NO. 17 Bull Mountain Density June 28, 2005 Page 22

One effect of M-37 is the reluctance of local governments to enact new land use regulations because they may incite M-37 claims. For example, when properties annex to the City of Beaverton, Beaverton is now maintaining the county's land use designations and development standards in order to avoid a potential M-37 from the adoption of the city's most comparable land use districts and application of its development standards. Beaverton will only adopt its land use designations and requirements if the property owner requests it.

Please note that citizen desires for lower density might conflict with some property owners desires to maximize their property value. M-37 makes the density issues on Bull Mt. much more complicated.

Possible Alternatives to Reduce Density in the Urban Unincorporated Bull Mt. Area Any changes to density in the Bull Mt. area cannot result in an overall loss of planned density due to the requirements of the Metro Housing Rule and Metro's Functional Plan. Consequently, only two possible solutions are available to address density in the Bull Mt. area. They are: 1) reallocate the density within the area, and/or 2) find another urban area with the potential to accept density from Bull Mt.

Currently, there are no other areas in urban unincorporated Washington County that desire more residential density. Therefore, staff will not consider other urban unincorporated areas as potential areas to assign Bull Mt. density. The city of Tigard, however, has stated it is interested in examining this issue through the update of its comprehensive plan, an update of the Bull Mt. Community Plan and planning for the UGB expansion areas. Based upon these parameters and the two solutions described in the preceding paragraph, staff has identified four possible alternatives to examine a reduction of density in the Bull Mt. area. They are:

- 1. Reallocate the existing overall density of the unincorporated Bull Mt. area within its current boundary, whereby the density of some properties would be reduced and the density of other properties would be increased to offset the density reduction.
- 2. Update the BMCP in conjunction with Tigard's update of its comprehensive plan. A combined comprehensive plan and community update would determine if Tigard has additional capacity to accept density from the Bull Mt. area.
- 3. Through the planning of the Bull Mt. UGB expansion areas, study the possibility of assigning a portion of Bull Mt.'s existing density to the expansion areas. The planning of these areas would need to determine if they are capable of accommodating more than Metro's minimum requirement of 10 dwelling units per net acre.
- 4. Update the BMCP in conjunction with Tigard's update of its comprehensive plan and also the planning of the Bull Mt. UGB expansion areas. This alternative combines Alternatives 2 and 3 and provides two potential areas to which density could be transferred.

DRAFT ISSUE PAPER NO. 17 Bull Mountain Density June 28, 2005 Page 23

Provided below is an analysis of the four alternatives. Each alternative would be carried out through a public planning process that would involve Bull Mt. residents and property owners and CPO 4B. Each alternative includes a generalized scope of work and describes:

- Potential effectiveness to reduce density in unincorporated Bull Mt.
- Consistency with County 2000
- Potential impacts from M-37

Alternative 1 - Reallocate the Existing Density of Unincorporated Bull Mt. within this Area

The goal of this alternative is to find vacant unincorporated properties in the Bull Mt. area that could be upzoned from R-7 to allow the density of other R-7 properties to be reduced. The areas that should be considered for an increase in density are along the collectors and arterial in the area in order to accommodate the increase in traffic from denser housing. Those roads are Bull Mt. and Beef Bend Roads and 150th Avenue. The availability of vacant land along these corridors would determine how many additional dwellings units could be located in these corridors. That in turn would determine how many other vacant properties could have their land use designations down zoned.

This alternative may not be satisfactory to all Bull Mt. residents because it does not reduce the overall density of the entire area and it results in higher densities along major road corridors. However, by increasing the density along part of the collector and arterial system, it would allow the areas away from the area's major road system to have reduced densities.

Washington County is currently responsible for comprehensive planning for the Bull Mt. area. In order to carry out this alternative, the county would have to update the BMCP. However, updating the community plan is a municipal level service. As noted in the earlier discussion about County 2000, a county update of the community plan would be contrary to County 2000.

Tigard has said it would update the BMCP in conjunction with its update of its comprehensive plan. Therefore, Alternative 1 could be included as part of Alternatives 2 and 4.

Notwithstanding County 2000, if the county were to implement this alternative, it could result in potential M-37 claims from property owners who believe the value of their property has been diminished due to new land use designations.

<u>Alternative 2 – Update the BMCP In Conjunction with Tigard's Comprehensive Plan Update</u>

Tigard recently said it would consider accepting density from the Bull Mt. area if the city has the capacity to do so. In order to carry out this alternative, the city would have to update the BMCP in conjunction with the update of its comprehensive plan. A combined update of Tigard's comprehensive plan and the BMCP would determine if Tigard has additional capacity to accept density from the Bull Mt. area. In conjunction with Alternative 2, the proposed reallocation of dwellings discussed under Alternative 1 could also be considered.

As part of its comprehensive plan update, Tigard will prepare an inventory and analysis of several factors within the city, including vacant land, residential development (existing densities,

redevelopable land), park and open space needs, and significant natural resources, including associated development constraints. These analyses are critical to determining the city's capacity for additional dwellings. Similar analyses of the Bull Mt. area are also needed and could readily be done with the city's work. If the city determines it has the capacity to accept density from Bull Mt., needed ordinances to amend the land use designations in the city and the unincorporated Bull Mt. area would have to be considered. Because the county must be the final decision maker in the unincorporated area for comprehensive plan related decisions, the county would have to act upon its changes to the BMCP once Tigard has changed its comprehensive plan. The land use designations in the Bull Mt. area cannot be changed until the city amends its plan to accept any density from the Bull Mt. area.

Another advantage of Alternative 2 is the availability of Tigard's existing low density single family land use districts (shown below) as tools to reduce density in Bull Mt. area. The density requirements of the R-1, R-2, R-3.5 and R-4.5 are lower than the R-7 District. The density requirements of these districts are also lower than the county's two single family districts, the R-5 and R-6 Districts. As shown under the analysis of densities permitted by county and city standards, the county's R-6 District often result in more dwellings than permitted by the R-7 District and the R-5 District would likely only slightly reduce the permitted densities under the R-7 District. Without the use of one or more of Tigard's low density single family districts there would be little opportunity to transfer density from Bull Mt.

Tigard's current single family districts:

- R-1: Low Density Residential District; minimum lot size of 30,000 square feet
- R-2: Low Density Residential District; minimum lot size of 20,000 square feet
- R-3.5: Low Density Residential District; minimum lot size of 10,000 square feet
- R-4.5: Low Density Residential District; minimum lot size of 7,500 square feet
- R-7: Medium Density Residential District; minimum lot size of 5,000 square feet

Under this alternative, the county would participate in a limited capacity due to its role as the final decision maker for comprehensive plan related decisions, which would be consistent with County 2000. This alternative is consistent with County 2000 because Tigard would update the community plan as the municipal service provider and the county would conform the community plan to Tigard's plan.

Notwithstanding County 2000, if the county were to implement this alternative, it could result in potential M-37 claims from property owners who believe the value of their property has been diminished due to new land use designations.

<u>Alternative 3 – Washington County Addresses the Density Issue in Conjunction with Planning the UGB Expansion Areas</u>

Metro added Areas 63 and 64 to the UGB in 2002. Together, they total 483 acres. Title 11 of the Functional Plan requires all UGB expansion areas to be planned for a minimum density of 10 dwelling units per net acre. Development of these areas can not occur until the planning for these areas is completed. Given the topography of parts of Areas 63 and 64 and stream corridors in the

DRAFT ISSUE PAPER NO. 17 Bull Mountain Density June 28, 2005 Page 25

areas, there will be limitations to the development capacity of these areas. Currently, no planning analysis of these areas has occurred. Issue Paper 18 addresses the planning of these areas.

Consistent with County 2000, the county desires the planning of the UGB expansion areas to be done by cities. Currently, the county has only committed to plan one expansion area, North Bethany, due to its unique circumstances. No decisions have been made yet about which local government will do the planning for the Bull Mt., Cooper Mt. and 209th Avenue UGB expansion areas. All of the other areas are being planned by cities.

If it is determined that the county is the appropriate jurisdiction to plan Areas 63 and 64, the county would limit its work to the expansion areas due to County 2000. As previously discussed in this paper, it would be necessary to update the BMCP in order to reduce the existing density in Bull Mt., a task the county no longer performs. Therefore, this alternative would not address citizen concerns about reducing density in the Bull Mt. area. However, if this alternative were available, applying the county's R-6 District to the Bull Mt. area would not result in fewer dwelling units than currently permitted by the city's R-7 District. Applying the county's R-5 District to the Bull Mt. area would only result in a slight decrease of in density compared to the R-7 District.

There are no potential M-37 claims under this alternative because the county would not update the BMCP in conjunction with planning Areas 63 and 64.

Alternative 4 – Tigard Addresses Bull Mt. Density in Conjunction with Planning the UGB Expansion Areas and Updating the BMCP

Tigard said it also is interested in planning these areas in conjunction with its comprehensive plan update and update of the BMCP so that all of Bull Mt. can be planned for through an integrated planning process. Therefore this alternative would include an update to the BMCP and Tigard's comprehensive plan.

Alternative 4 provides the best opportunity to find density capacity to assign density from the Bull Mt. area because there would be two potential areas to transfer density to – the city of Tigard and the UGB expansion areas. This alternative would result in a comprehensive, integrated replanning of the entire Bull Mt. community that would also consider all of the residents' concerns and not just density, as discussed in Issue Paper 18.

As was the case with Alternative 2, an advantage of Alternative 4 is the availability of Tigard's existing lower density single family land use districts, the R-1, R-2, R-3.5 and R-4.5 Districts, to reduce density in Bull Mt. area.

Under Alternative 4, the county would participate in a limited capacity due to its role as the final decision maker for comprehensive plan related decisions, which would be consistent with County 2000.

DRAFT ISSUE PAPER NO. 17 Bull Mountain Density June 28, 2005 Page 26

The potential for M-37 claims is the greatest under this scenario because it provides two potential areas to transfer density from the Bull Mt. area and therefore potentially down zone more properties.

wpshare\2005ord\work program\issue papers\Bull Mt papers\IP 17 final draft 6-28-05.doc



WASHINGTON COUNTY OREGON

June 28, 2005

DRAFT PLANNING DIVISION ISSUE PAPER NO. 18

Updating the Bull Mountain Community Plan

Issue

Through the Planning Division's 2005 work program, the Board of County Commissioners (Board) directed staff to prepare six issue papers about planning and park issues in the urban unincorporated Bull Mt. area. Issue Paper 18 examines how the Bull Mt. Community Plan could be updated. This paper also addresses recent comments from the City of Tigard and key concerns of residents from the Bull Mt. area. The City of Tigard is interested in updating the Bull Mt. Community Plan and planning the Bull Mt. UGB expansion areas in conjunction with the city's upcoming update of its Comprehensive Plan.¹

Recommendation

Update the Bull Mt. Community Plan through an integrated, comprehensive community-wide planning process in conjunction with:

- 1. The City of Tigard's update of the city's comprehensive plan (Alternative 4), or
- 2. The City of Tigard's update of its comprehensive plan and planning the Bull Mt. UGB expansion areas (Alternative 4A).

Summary

Staff analyzed eight alternatives to update the Bull Mt. Community Plan (BMCP). Six alternatives would be conducted by Washington County and would make varying degrees of changes to the county's Comprehensive Plan, include the BMCP and applicable development regulations. Two alternatives would be conducted by Tigard in conjunction with its update of the city's comprehensive plan. Four alternatives address the Bull Mt. UGB expansion Areas 63 and 64 in conjunction with updating the BMCP and four alternatives do not address these areas.

The factors staff used to analyze the alternatives are:

- How key citizen issues are addressed
- Cost effectiveness of each alternative to address key citizen issues
- Generalized costs
- Potential Measure 37 impacts
- Consistency with County 2000

¹ Issue Paper (IP) 22 addresses Mr. Hendryx's letter in greater detail.

DRAFT ISSUE PAPER NO. 18 Bull Mt. Community Plan Update June 28, 2005 Page 2

Only three alternatives, Alternatives 4, 3A and 4A, have the potential to reduce planned densities in the Bull Mt. area. Alternative 4A has the greatest potential to reduce density because 1) there are two potential areas to reallocate density, the City of Tigard and Bull Mt. UGB expansion Areas 63 and 64; and 2) the use of Tigard's existing single family residential districts that are less dense than the county's R-6 District. Alternative 3A provides the next best opportunity to reduce density through the planning of Areas 63 and 64 by the county. However, the county would have to create a new single family residential district with density lower than the county's R-5 District in order to achieve a meaningful reduction in density. Alternative 3A also requires the county to update its Comprehensive Plan in order to address other key citizen issues, a task that would be a massive undertaking. Consequently, Alternative 3A is the most costly and least cost effective alternative.

As discussed in Issue Paper 17, development under Tigard's R-7 District is less dense than what would be required under the county's R-6 District. This is due to the different methods the city and county use to calculate density. Consequently, reinstituting the R-6 District will not reduce current built densities. Using the county's R-5 District could result in densities slightly lower than the R-7 District. However, Tigard's other single family residential districts, the R-4.5, R-3, R-2 and R-1 Districts, are all less dense than the county's R-5 District. Using one or more of these districts in the Bull Mt. area provides the opportunity to reduce density in Bull Mt.

Another important factor that must be considered by all of the alternatives is Measure 37. It makes the density issues on Bull Mt. much more complicated. M-37 requires compensation for land use regulations that reduce the value of property when the land use regulation was adopted after the current property owner or family member acquired the property. In lieu of compensation, the government agency that adopted the regulation may waive the regulation and permit development under the prior land use requirement. Due to M-37, there is no certainty that all of the properties in the Bull Mt. area will develop at existing or future planned densities. Consequently, citizen desires for lower density might conflict with some property owners desires to maximize their property value.

Background

At the Board's request, the Planning Division has prepared seven issue papers that address different planning and park issues associated with the urban unincorporated Bull Mt. area. Five of the other issue papers address density, parks, planning the Bull Mt. UGB expansion areas, and amendments to the Washington County / Tigard Urban Planning Area Agreement. The seventh issue paper (IP 14) addresses CPO 4B's request for a public facility strategy / development moratorium for the Bull Mt. area.

In December 2004, the Board and the Tigard Council held a joint meeting to discuss a number of issues about the Bull Mt. area that had been raised by residents in the area. The Board and the Council expressed a desire to work together to develop a planning program that could address residents' concerns, primarily through the upcoming planning efforts of the city. The Board directed the county Planning Division to prepare in consultation with Tigard, issue papers on park planning and funding (Issue Papers15 and 16), the potential to decrease density in the Bull Mt. area (Issue Paper 17), updating the Bull Mt. Community Plan (Issue Paper 18) and planning the Bull Mt. UGB expansion areas (Issue Paper 21). The Board asked staff to include in these issue papers an

DRAFT ISSUE PAPER NO. 18 Bull Mt. Community Plan Update June 28, 2005 Page 3

assessment about how to address identified issues in conjunction with Tigard's update of its Comprehensive Plan and park master plan, and planning for the Bull Mt. UGB expansion areas.

Analysis

The Bull Mt. Community Plan (BMCP) and several other community plans were adopted in 1983 as part of the county's new Comprehensive Plan. The BMCP applied the first urban land use designations to the Bull Mt. area. Most of the area north of Beef Bend Road was designated R-6 and the remaining area R-15 or R-24. The area south of Beef Bend Road was designated R-9, R-15 and R-24 (between 9 and 24 dwellings per acre). Since 1983, significant areas in the original community plan boundary have been annexed to Tigard and King City.

After the adoption of its 1983 Comprehensive Plan, Washington County adopted the *County 2000 Strategic Plan* in 1986.² County 2000 dictates how the county will provide services, including planning and land development services. County 2000 changed the focus of the services the county should provide. Rather than providing both localized and countywide services, County 2000 calls for the county to provide countywide services in the future (e.g., health, aging and veteran services; maintain and operate a countywide road system) and move away from the provision of localized municipal types services (e.g., local street system, neighborhood level planning). Consequently, the county's long term policy for the urban unincorporated areas envisions that they will eventually be served by a city so the county can focus its resources to provide countywide services.

County 2000 changed the focus of the county's long range planning services from neighborhood level planning (e.g., updating community plans) to participating in countywide, regional and state planning activities. Consequently, the county has not updated any community plan since their adoption. Instead, the county has made limited amendments to the community plans over the years to comply with regional and state planning requirements - Metro's 2040 Plan, the Regional Transportation Plan and the State Transportation Planning Rule. A county planning process to update a community plan currently is not consistent with County 2000.

Consistent with County 2000 and the Washington County / Tigard Urban Planning Area Agreement (UPAA), the county assigned responsibility for land development, building and code enforcement services for the urban unincorporated Bull Mt. area to the city of Tigard on May 12, 1997.³ Washington County retained responsibility for comprehensive planning and transportation planning in the area.

To facilitate the transfer of services to Tigard, the county adopted Ordinance No. 487. Ordinance 487 adopted Tigard's Comprehensive Plan and development code in place of the county's Urban Comprehensive Framework Plan for the Urban Area (Framework Plan) and the Community Development Code (CDC). Ordinance No. 487 replaced the land use designations in the Bull Mt. Community Plan with Tigard's comparable comprehensive plan and zoning designations. The remaining provisions of the BMCP (e.g., text, Significant Natural Resource Designations) continue to apply today. Table 1 provides a comparison of the county and city's land use designations that are used in areas outside of Light Rail Station Areas and Regional and Town Centers.

² County 2000 was updated in 1990 and 1996. A third update of County 2000 is currently underway.

³ Implemented by the Urban Services Intergovernmental Agreement between City of Tigard and Washington County (Service IGA). It was renewed September 3, 2002.

In 2004, Tigard's Bull Mt. Annexation Planning Subcommittee⁴ identified a number of planning related issues it said should be addressed in the Bull Mt. area *and* in the city of Tigard. These issues are identified in the subcommittee's attached May 2004 Bull Mt. White Paper on Planning. The subcommittee found the BMCP and the Tigard Comprehensive Plan to be out of date and recommended that *both* plans be updated as soon as possible.

Through the Tigard Urban Service Agreement, the UPAA and the Service IGA, Tigard currently provides many services to urban unincorporated Bull Mt. The city is the current service provider to this area for water, the operation and maintenance of sewer and storm water facilities, and land development and building services. Tigard's Park Master Plan, Park Capital Improvement Plan, and park system development charge and methodology report also address the area. Currently, Tigard is investigating the acquisition of additional park land in the area. Tigard is designated as the long term service provider to the area for parks, recreation, open space, law enforcement, the transportation system, and long range planning. Tigard will provide the last three services upon annexation because city property taxes and development fees fund these services (e.g., the city's park and recreation system development charge [SDC]). Proposed amendments to the BMCP would have to be consistent with the city's service master plans and other applicable service providers plans.

State and Metro standards require with which an update of the BMCP must comply are the state's Metropolitan Housing Rule (implements Goal 10 – Housing – in the Portland area) and Title 1 of Metro's Urban Growth Management Functional Plan. Key requirements of those regulations for urban unincorporated Washington County cities with a population of 2,500 or more persons are:

Metropolitan Housing Rule

- Washington County and its cities must provide the opportunity for at least 50% of new residential dwellings to be attached single family (town house) or multi-family housing (apartments)
- The minimum density requirements that Washington County and its cities must provide are:
 - The cities of Tigard, Hillsboro and Beaverton ten dwellings units per net buildable acre
 - Urban unincorporated Washington County eight dwellings units per net buildable acre
 - The cities of Forest Grove, Tualatin and Wilsonville eight dwellings units per net acre
 - The cities of Cornelius, Durham and Sherwood six dwellings units per net acre

⁴ The Subcommittee was made up of three Bull Mt. residents, three city residents, and Tigard and county planning staff. Recommendations were made by citizen committee members, staff provided technical assistance.

⁵ Tigard owns a 12 acre wooded parcel outside of the city that will be developed in the future by the city as Cache Creek Nature Park. See Issue Paper 15 for additional information.

Table 1 COMPARISON OF LAND USE DISTRICTS

Single Family Land Use Districts

Count	y Districts	City Districts ⁶	SAPET
R-5	Maximum Density: 5 units/gross acre	Maximum Density: 1 unit/net acre	R-1
	Minimum Lot Area 5,500 sq. ft.	Minimum Lot Area: 30,000 sq. ft.	
R-6	Maximum Density: 6 units/gross acre	Maximum Density: 2 units/ <u>net</u> acre	R-2
	Minimum Lot Area for detached single	Minimum Lot Area: 20,000 sq. ft.	
	family dwellings: 4,000 sq. ft.	Maximum Density: 3 units/ <u>net</u> acre	R-3
	Minimum Lot Area for <u>attached</u> single family dwellings: 3,500 sq. ft.	Minimum Lot Area: 10,000 sq. ft.	
		Maximum Density: 4.5 units/net acre	R-
		Minimum Lot Area: 7,500 sq. ft.	4.5
		Maximum Density: 7 units/ <u>net</u> acre	R-7
		Minimum Lot Area (detached and attached dwellings): 5,000 sq. ft.	

Multi-Family Land Use Districts

County Di	stricts	City Districts	
R-9	Maximum Density: 9 units/gross acre	Maximum Density: 12 units/net	R-12
		acre	
	Minimum Lot Area for a detached		
	single family home: 2,800 sq. ft.	Minimum Lot Area for attached and	
		detached single family homes:	
	· ·	3,050 sq. ft.	
R-15	Maximum Density: 15 units/gross	Maximum Density: 25 units/net	R-25
	acre	acre	
	Minimum Lot Area for a detached	Minimum Lot Area for attached	
	single family home: 2,100 sq. ft.	dwellings: 1,480 sq. ft.	
R-24	Maximum Density: 14 units/gross	Maximum Density: none	R-40
	acre		
		Minimum Lot Area: none	
	Minimum Lot Area for a detached		
	single family home: 2,100 sq. ft.		
R-25+	Maximum Density: 25 to 120		
	units/gross acre		
	Minimum Lot Area for a detached		
	single family home: 2,100 sq. ft.		

⁶ Tigard's maximum densities shown in Table 1 are based upon the assumption that the city's density calculation standards and each district's dimensional standards will not result in densities greater than those shown in this table.

Title 1 of Metro's Urban Growth Management Functional Plan

- Assigned urban unincorporated Washington County a future housing target of 54,999 dwelling units, which required the county to provide for an additional 11,000 dwelling units.
- Established minimum densities in residential districts at no less than 80% of each maximum density.

This paper is premised upon the assumption that there will be continued compliance with these mandatory requirements. Therefore, the potential planning alternatives examined in this paper assume consistency with state and Metro requirements. Consequently, in order to reduce density in the Bull Mt. area, that density has to be reallocated to another urban area.

Significant Natural Resources

Concerns have been expressed by citizens that some new development in the Bull Mt. area does not comply with the requirements of the BMCP for the removal of trees and vegetation. The purpose of this paper is to examine how issues could be addressed through different planning alternatives to update the BMCP. Therefore, this paper examines this particular issue from the perspective of how the alternatives could or could not consider changes to the current regulations rather than how those regulations are currently implemented. The following discussion describes the current requirements that are applicable to the Bull Mt. area and the work currently underway to address these resources through the countywide Goal 5 and Healthy Streams Program.

The county is not aware of any development that might not comply with current regulations. Consequently, the county does not know if those concerns are about properties with or without a Significant Natural Resource designation.

Current Requirements in the Bull Mt. Area

Through Ordinance 487, the county's requirements that were applicable to Significant Natural Resources in the BMCP were maintained and are in effect today. Those requirements are:

- The Significant Natural Resource designations in the BMCP
- General Design Elements in the BMCP related to these resources
- Design Elements of the Summit and Slopes Subarea of the BMCP applicable to these areas
- The applicable requirements of the CDC for Significant Natural Resources, primarily Section 422 (Significant Natural Resources) and Subsection 407-3 (Tree Preservation and Removal).

Ordinance 487 specifies that these requirements are applicable to development applications reviewed by the city. The ordinance also specifies that these standards will be implemented using Tigard's procedures that are applicable to areas of the city designated as Sensitive Lands. The procedures for Sensitive Lands are in Chapter 18.775 (Sensitive Lands) in Tigard's development code. Examples of applicable city procedures include application submission requirements and review procedures

⁷ Two unincorporated areas where the county did not increase residential densities as it originally proposed to do were the Bull Mt. and Metzger areas. At Tigard's request, the county did not increase the density in the Bull Mt. area to accommodate 302 additional dwellings units. In the Metzger area, Tigard assumed responsibility for 668 additional dwellings that had been proposed to be provided in the Washington Square Regional Center Plan through the upzoning of R-5 land.

(Type II or Type III) to use to process an application. The Type II procedure is an administrative review process with public notice; Type III uses a public hearing.

Because the county's Significant Natural Resource requirements for the Bull Mt. area are maintained, there is no difference between the standards the city is currently required to use and those that were applicable when Washington County was responsible for reviewing development applications in the area between 1983 and May 1997.

Finally, it should be noted that the requirements described above are *only* applicable to vegetation that is designated as a Significant Natural Resource. These standards *do not* apply to areas that are not identified by the BMCP as a Significant Natural Resource. Ordinance 487 makes the city's standards applicable to vegetated areas that are not a Significant Natural Resource. The county's requirements do allow the removal of trees and vegetation from areas that are not identified as a Significant Natural Resource.

Countywide Goal 5 and Healthy Streams Program

Washington County, its cities and Clean Water Services are in the process of updating the county and cities' comprehensive plans to comply with regional requirements for addressing Statewide Planning Goal 5⁸ for significant natural resources. The countywide program, to be implemented in 2005 and 2006, relies upon uniform development standards for water and riparian related resources through existing regulations applicable to water quality sensitive areas and vegetated corridors. Due to the uniformity of these standards, there should be no difference between county and city standards. This program also eliminates the need to address these resources through an update of the BMCP.

Areas of the county that were previously designated as significant upland habitat will continue to be regulated by each jurisdiction's requirements for those areas because they are not addressed by the vegetated corridor standards. Although Washington County and its cities each have different program development standards that address upland habitat areas, they have all been acknowledged by the State Land Conservation and Development Commission (LCDC) to be in compliance with the Goal 5. Since the current regulations of the county and the cities are all different there will not be uniform countywide standards for upland habitat.

In the unincorporated area, significant upland habitat areas are designated by the county as Wildlife Habitat. The county's existing requirements in the community plans and the CDC will continue to be applicable to development in the unincorporated area, including Bull Mt. If the BMCP is updated, that planning process should compare the county and Tigard's standards and consider whether or not it would be beneficial to continue to use the county standards for properties in the Bull Mt. that annex to Tigard.

2020 Transportation Plan

In October 2002, Washington County adopted a new transportation plan, the Washington County 2020 Transportation Plan (Transportation Plan). The transportation plan comprehensively addresses all of the requirements of the State Transportation Planning Rule (TPR) and the Regional

⁸ Goal 5 – Natural Resources, Scenic and Historic Areas, and Open Spaces

Transportation Plan (RTP). Key provisions of the Transportation Plan that are applicable to the Bull Mt. area are:

- 1. Roy Rogers Road is the only road that is designated as part of the countywide road system (Figure 10, Transportation Plan). Other roads in the area are or will become the responsibility of Tigard as roadway jurisdiction is transferred from the county to the city.
- 2. Beef Bend Road, between Hwy. 99 and 150th Avenue, is the only road in the area that has an RTP street design overlay designation. Figure 3 (Regional Street Design Overlay Map) in the Transportation Plan designates this section of the road with the RTP's "'Street Design' Consideration." Consistent with the RTP, the Transportation Plan requires the following design elements to be *considered* as part of future improvements to this section of road. ⁹ These design considerations are not mandatory.
 - wide sidewalks separated from the roadway with a landscape planter strip where possible
 - landscaped center median when a center turn lane is not needed
 - marked pedestrian crossings at intersections; special crossing improvements may be made at major intersections.
- 3. Improvements to other roads in the area will be designed to be consistent with the provisions of the Washington County Uniform Road Improvement Design Standards.

Since the adoption of the Transportation Plan, the county has begun implementing the policies and strategies of the Plan. An early task, which county staff have initiated, is to develop a countywide funding plan that will define how to fund improvements identified in the plan. A comprehensive public involvement will accompany development of the funding plan for the next few years.

Transportation Funding and Improvements

Improvements to the major transportation system in Washington County are mostly financed by the Major Streets Transportation Improvement Program (MSTIP) and the Traffic Impact Fee (TIF) Program. The MSTIP and TIF programs, and their funding levels, were developed through a public process in the mid-1980's. Based on past trends, it is estimated that the two programs are capable of funding approximately half of the improvements identified in the Transportation Plan. Additionally, limited funding from state and federal grants has also been used for some projects.

Voters approved MSTIP in 1986, 1989 and 1995. MSTIP is a joint effort of Washington County and the cities of Washington County. Approximately \$350 million in transportation improvements have been funded through MSTIP over the past 20 years. The MSTIP program was designed to fund a basic level of streetscape improvements in conjunction with road improvements. For example, MSTIP does not fund the placement of overhead utilities (power lines) underground or provide "boulevard" type landscaping. Funding to pay for adding these features to MSTIP projects in the past has come from other city or county funds.

Locally, more than \$65 million dollars in MSTIP improvements have been made or are committed to future improvements that serve the Bull Mt. area. For example, more than \$17 million was spent to

⁹ See also pg. 9 of the Transportation Plan and the street design cross sections in Appendix B-8 of Transportation Plan Technical Appendix

DRAFT ISSUE PAPER NO. 18 Bull Mt. Community Plan Update June 28, 2005 Page 9

improve Beef Bend/Elsner/Roy Rogers Road and \$8 million was spent to improve Tualatin-Sherwood Road. The upcoming realignment of 175th Avenue north of Scholls Ferry, at its intersection with Roy Rogers Road, will improve this north-south route for traffic in the area. Also, the upcoming extension of Murray Blvd. between Scholls Ferry and Barrows Roads will improve north-south connections in the area.

The Traffic Impact Fee is a transportation tax that all new development in Washington County pays. TIF revenue is used to fund capacity improvements to the major road system in Washington County. Certain county and city collectors and arterials are eligible to be improved with TIF revenue. TIF revenue cannot be used to improve state highways. Due to the high cost of road improvements, the county and cities generally use TIF revenue to fund smaller improvement projects, such as intersection improvements, or to augment MSTIP funding of larger projects. For example, in the Bull Mt. area MSTIP and TIF funding was used to construct 121st Avenue and Gaarde Street. Combined funding will also be used to construct the Murray Blvd. extension. Due to high construction costs, the county and cities also need to accumulate TIF revenue over time in order to fund projects.

In 1990, voters approved changes to the original TIF program that was approved in 1986 to make it applicable to *all* development in Washington County. TIF rates are based upon the rates voters approved in 1990. If new development is required to make safety or capacity improvements to an eligible collector or arterial, a portion of the cost may be eligible to be used as a credit against a development's required TIF payment. Credits for improvements in 2004 equaled about 30% of the total TIF income.

In 1997, Washington County and the City of Tigard agreed that the city would assume responsibilities for land development and building services in the urban unincorporated Bull Mt. area. The Service IGA between the county and city made Tigard responsible for collecting the TIF, which it places in a special account. Tigard is responsible for identifying and making improvements to collectors and arterials that will benefit the Bull Mt. area. TIF revenue from urban unincorporated Bull Mt. may be used to improve roads in the area, including city roads, provided they benefit the urban unincorporated area. For example, improvements to the sections of Gaarde and Walnut Streets and 121st Avenue that were previously located in the unincorporated "Walnut Island area" were partially funded from TIF revenue generated in the urban unincorporated Bull Mt. area. The Beaverton and Tigard Urban Planning Area Agreements with the county each required Gaarde Street, between 121st Avenue and Hwy. 99, to be improved before or coincident with the connection of Murray Blvd. from Walnut/135th Avenue to Gaarde Street. An upcoming project by Tigard will improve the Bull Mt./Roshak Rd. intersection through TIF revenue from urban unincorporated Bull Mt. Table 2 shows the break down of TIF revenue from the city and urban unincorporated Bull Mt. used to improve these roads.

¹⁰ The initial TIF program applied only to unincorporated Washington County. It was approved by voters in the unincorporated area in 1986.

Table 2

Improvement Project	City TIF Funds	Urban Unincorporated Bull Mt. TIF Funds
Gaarde St. – Phase 2 (construct 3	City III i unus	
lane section with bike lanes and	\$1,800,000	\$500,000
sidewalks, between Hwy. 99 and	41,000,000	\$300,000
121st Ave.; install traffic signal		
at 121st/Gaarde intersection		
121st Ave. (design & ROW	\$300,000	\$100,000
acquisition)		
Walnut St. (design & ROW	\$300,000	\$100,000
acquisition)	·	·
Bull Mt./Roshak Rd. intersection		\$150,000
- add turn lanes on Bull Mt. at		·
the intersection		
Totals	\$2,400,000	\$850,000

The Service IGA also requires Washington County and the Washington County Coordinating Committee (WCCC) to approve improvements proposed by the city. *All* of the improvements that have been made or are funded to date have been approved by the county and the WCCC.

To date, approximately \$10 million in TIF improvements have been made or are committed to future improvements in the Bull Mt. area. The TIF cash balance TIF for urban unincorporated Bull Mt. as of May 31, 2205 is \$663,850.

The map on the following page shows the transportation improvements that have been made or are funded through the MSTIP and TIF programs to serve the Bull Mt. Area.

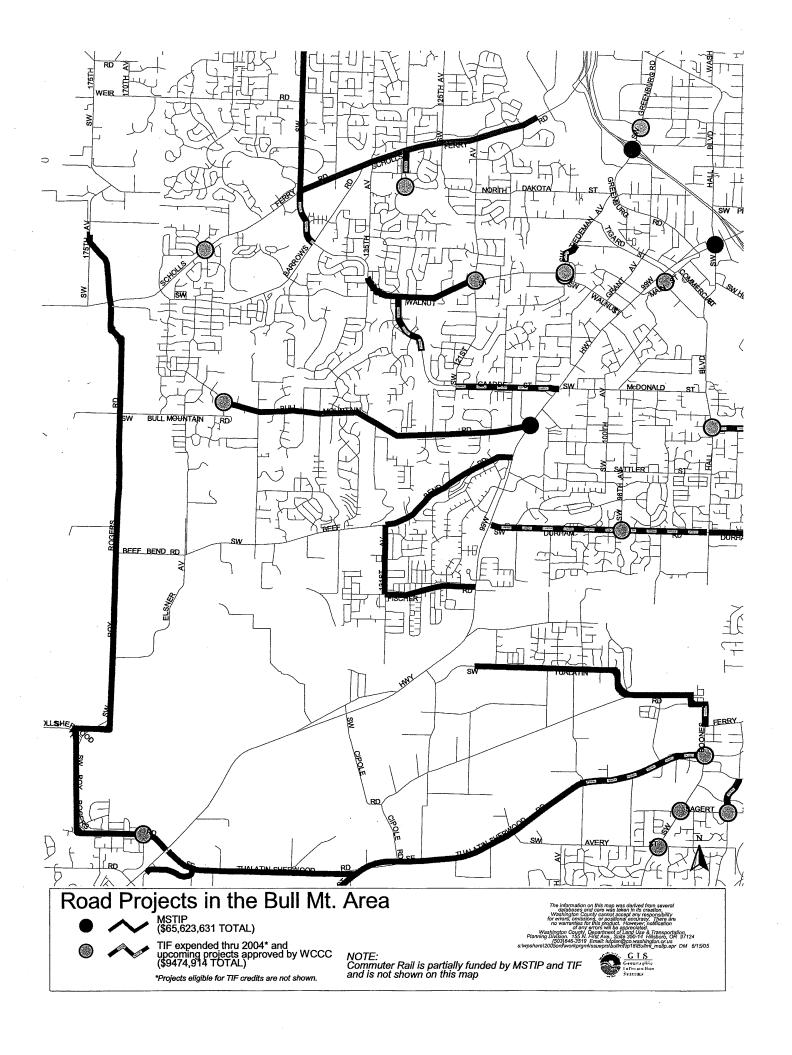
Through the development of the county's funding plan for the county's Transportation Plan, the countywide community will decide how many of the improvements identified in the Transportation Plan it wants to fund and how to go about it. A comprehensive public involvement program will accompany development of the funding plan.

Key Citizen Planning Issues

Issue Paper 18 considered the key citizen issues that are described below. Staff identified those issues to be of greatest concern based upon staff's review of the information sources noted below.

Citizen issues addressed by Issue Paper 18:

- 1. Reducing the density in unincorporated Bull Mt.
- 2. Compliance with the BMCP:
 - Density should not exceed the maximum permitted density of the R-6 District
 - The removal of trees and vegetation should not exceed the requirements of the BMCP
- 4. New development is not in character with existing development
- 5. Improve the transportation system



In order to identify and evaluate key citizen concerns, staff considered the following information:

- May 2004 White Paper on Planning prepared by Tigard's Bull Mt. Annexation Planning Subcommittee
- CPO 4B Resolution and Order No. 04-05
- The chief planning concerns CPO 4B identified in the Washington County Committee for Citizen Involvement's (CCI) report recommending changes to the county's development regulations.
- Key concerns identified by Bull Mt. residents, in recent correspondence to Chairman Brian
- Public comments at the June 2, 2005 CPO 4B meeting.

The comments below describe how the following citizen issues will be considered by the planning alternatives to update the community plan.

Compliance with the BMCP

1. Density

As noted earlier in this paper, development that is consistent with the density requirements of Tigard's R-7 District is consistent with the BMCP. Issue Paper 17 examined 17 subdivision applications that were submitted in the Bull Area since 2002. That analysis found the average density of those subdivisions to be 4.8 units per acre. It also found that none of the subdivisions had more density than permitted by the R-6 District. A comparison of the permitted densities under the county and the city's standards for these subdivisions is shown in Table 3 of this paper.

Due to citizens' desire to replace the R-7 District with the R-6 District or another single family residential district, this paper examines whether or not the planning alternatives could replace the R-7 District. The planning alternatives described below consider the reinstitution of the R-6 District and the use of Tigard's low density single family districts.

2. The removal of trees and vegetation

As noted earlier, current development in Bull Mt. must comply with the provisions of the BMCP and the county's CDC standards for areas in the community plan that are designated as a Significant Natural Resource. This issue is beyond the scope of this paper. The planning alternatives examined below consider how each alternative could or could not consider changes to the current regulations and whether or not the current requirements would continue to apply.

Transportation Improvements

The planning alternatives will consider whether or not each alternative could examine the provisions of the county's Transportation Plan related to the future design of roads, including Regional Street Design Overlay Map and the street design cross sections in Appendix B-8 of Transportation Plan Technical Appendix. Citizens' desires for more improvements to roads that serve the Bull Mt. area will not be addressed in this paper because the appropriate venue to address those concerns is through the development of the funding plan.

Table 3 – Density Comparison

		-		-	COUNTY R-6 DISTRICT	
PROJECT NAME	Tigard Development File No.	Dev. File Status	Acres	No. of Lots approved/proposed through Tigard's R-7 District	Minimum No. of Required Lots (5 units per gross acre)	Maximum No. of Lots Permitted (6 units per gross acre)
Tuscany	2002-00001	Approved	15.16	89	76	91
Bella Vista	2002-00007	Approved	9.29	45	46	56
Ironwood Subdivision	2002-00008	Approved	1.22	6	6	7
Summit Ridge Phases 1-3	2003-00009 (Phase I & 2) 2004-00003 (Phase 3)	Approved	27.46	130	137	165
Meyers Farm II	2003-00014	Approved	8.16	44	41	49
Valley View	2004-00001	Approved	4.91	25	25	29
French Prairie Vineyards	2004-00004	Approved	5.7	30	29	34
Arbor Summit 1 & 2 Mountain View Estates	2004-00008 2004-00013 2004-00021	Approved Approved	8.83 6.94	42	44	53
Trevor Ridge	2004-00022	Approved	1.34	8	7	8 .
Alpine View	2004-00064	Pending	8.69	46	43	52
Summit Ridge Phase 4	2005-00002	Pending	0.75	5	4	5
Wilson Ridge	2005-00003	Pending	2.68	14	13	16
Arlington Heights 3	2005-00007	Pending	16.82	64	84	101
Sierra Park	2005-00008	Pending	4.19	24	21	25
TOTAL			122.14	591	611	733

Future funding sources for transportation improvements will be identified through the development of the funding plan for the county's Transportation Plan. Therefore, funding issues will not be addressed in this paper.

Measure 37

As discussed in some detail in Issue Paper 17, M-37 could impact an update of the Bull Mt. Community Plan, particularly the potential to down zone properties to reduce existing planned densities in the Bull Mt. area. The four indicators that staff examined in Issue Paper 17 to assess how owners of vacant land might respond to changes to down zone their property showed there may be a high likelihood that property owners would see the value of their property diminished. Consequently, citizen desires for lower density may conflict with some property owners' desires to maximize their property value.

Due to M-37, there is no longer any certainty that all properties in the Bull Mt. area will develop at existing or future densities. For example, if densities are reduced through an update of the BMCP, current property owners could have the potential to file a M-37 claim to develop at the previous higher density in place when they owned the property. Consequently, there is no guarantee that if the existing planned density can be reassigned from the Bull Mt. area to the City of Tigard or the UGB expansion areas the "down zoned" properties will develop at the new, lower densities. As noted in Issue Paper 17, this scenario could lead to higher overall densities for the larger community through development on Bull Mt. at current densities and denser development in Tigard and/or the UGB areas through the transfer of density from Bull Mt.

Alternatives to Update the Bull Mt. Community Plan

Staff identified eight alternatives that could be used to update the BMCP based upon the current requirements and conditions described above. Alternatives 1 through 4 do not include the planning of the Bull Mt. UGB expansions areas. Alternatives 1A through 4A include the planning of the UGB areas in conjunction with the same scope of work of the first four alternatives.

Each alternative includes a generalized scope of work and describes how the following criteria are or are not addressed.

- How key citizen concerns could be addressed
- Consistency with County 2000
- Potential impacts from Measure 37 (M-37)
- Generalized cost information
- Cost effectiveness to address key citizen issues

Staff ranked the eight planning alternatives using the criteria described above. Charts A and B show the ranking of the alternatives based upon cost, greatest potential to address citizen concerns, and greatest potential to amend the BMCP. The cost/benefit to update the BMCP and the cost/benefit to address citizen issues is shown in Chart C. The charts are provided at the end of the paper.

In order to understand some of the differences between some of the alternatives, the following background information is provided.

- 1. Key citizen issues: Staff ranked the key citizen planning issues that will be considered by each alternative. The issues are ranked from highest to lowest concern, with 5 as the most important and 1 as the least important. The ranking is:
 - 5. Reduce the planned density of future development in unincorporated Bull Mt.
 - 4. Density should not exceed the maximum permitted density of the R-6 District
 - 3. The removal of trees and vegetation should not exceed the requirements of the BMCP
 - 2. Make additional improvements to the area's transportation system, including Hwy. 99
 - 1. New development is not in character with existing development
- 2. The roles of the county's Framework Plan, community plans and development standards

The Framework Plan established the countywide policies and strategies that are the framework of the county's urban land use program. The policies and strategies apply to all of urban unincorporated Washington County. The Framework Plan lays out the tools that are used to implement the Framework Plan. The community plans carry out the Framework Plan's countywide policies and strategies to specific geographic areas. The development standards in the CDC implement the Framework Plan, the Transportation Plan and certain community plan requirements. The standards and review procedures in the CDC are also designed to apply on a countywide basis.

Consequently, the most effective way to address citizen concerns through an update of the BMCP requires the capability to review and amend the underlying policies and strategies of the applicable comprehensive plan and the development standards and review procedures that implement that comprehensive plan. Because each of the eight alternatives address the underlying plan policies and implementing land use regulations in varying degrees, each alternative will describe how well they address this factor.

Alternative 1 - County Updates BMCP Using Current Applicable County and City Requirements

Scope of Work: Alternative 1 uses Tigard's existing comprehensive plan, including land use designations, and development regulations. This alternative is limited to only amending the community plan because Tigard's comprehensive plan and development standards apply. Alternative 1 would not address the city's development regulations because it would not be practical for the county to lead a planning process to consider amendments to the city's regulations, particularly since the city is going to update those regulations shortly.

Key Citizen Issues: They would not be effectively addressed as described below.

- 1. Reduce the overall planned density of the BMCP:
 - The overall planned density of the area could not be reduced because there would be no other area to reassign the density to. As noted previously in this paper, Tigard's R-7 density requirements are less dense than the county's R-6 District.
 - Density could be reallocated within the area provided there was no overall loss of density. Properties that are currently zoned R-7 could be "down zoned" to one of Tigard's other less dense single family zoning districts (R-1, R-2, R-3.5, R-4.5). To offset the density decrease, the zoning of other vacant properties would have to be increased from R-7 to one of Tigard's three multi-family districts (R-12, 12 units per acre; R-25, 25 units per acre; R-40, 40 or more units per acre).
- 2. The density of new development should not exceed the maximum density of the R-6 District
 - This alternative would not change the applicability of Tigard's current land use districts to the BMCP. This concern could be addressed as described in the previous bulleted statement.
- 3. Standards for the removal of trees and vegetation
 - The county's existing regulations that are applicable to areas designated by the BMCP as a Significant Natural Resource would not be changed. The implementation of those requirements by either the city or the county should be the same.
 - Through the upcoming implementation of the countywide Goal 5 and Healthy Streams Program, uniform development requirements for water and riparian related resources will be developed and used by the county and the cities. Consequently, there should be no difference between the city and county's standards for these resources.
 - The city's standards for the removal of trees and vegetation in areas that are not designated by the BMCP as a Significant Natural Resource would not be addressed because the county would not amend the city's development standards.
- 4. Development is not in character with existing surrounding development
 - This concern would be addressed in a very limited manner because the county would not amend the city's land use regulations.
- 5. Improvements to the transportation system
 - This alternative would not consider amendments to the county's transportation plan and road standards. Therefore, future improvements to the collectors and the arterial in the area would be designed to be consistent with current requirements.

County 2000: This alternative is not consistent with County 2000.

Potential Measure 37 Impacts:

This alternative would have the fewest potential M- 37 impacts because it would result in the least changes to existing land use designations and regulations.

Expense ranking to update the community plan: 1st
Least expensive alternative because it has the most limited scope of work.

Ranking of potential amendments to the community plan: 1st Alternative 1 makes the fewest changes to the BMCP.

Ranking of potential to address citizen concerns: last Alternative 1 addresses the fewest citizen concerns.

Cost effectiveness ranking to address citizen concerns: last It addresses the fewest citizen concerns.

Alternative 2 – County Updates the BMCP by Limited Amendments to its Comprehensive Plan

Scope of Work: The county would repeal Tigard's zoning districts, Comprehensive Plan and development standards. In their place, the county would apply its current land use designations (R-5, R-6, R-9, etc.) in a manner that would not reduce the overall planned density of the area and make the Framework Plan and the CDC applicable to the area again. Amendments to the Framework Plan and the CDC would be considered provided their scope is limited to the Bull Mt. area.

Key Citizen Issues: There is limited potential to consider some of the key issues.

- 1. Reduce the overall planned density of the BMCP
 - The overall planned density of the area could not be reduced because there would be no other area to transfer the density to.
 - Density could be reallocated within the area provided there was no overall loss of planned density as described under Alternative 1.
- 2. The density of new development should not exceed the maximum density of the R-6 District
 - This alternative could reinstitute the county's R-6 District. However, the county's R-6 District allows denser development than Tigard's R-7 District. The county's only existing single family district that is less dense than Tigard's R-7 District is the county's R-5 District.
- 3. Standards for the removal of trees and vegetation
 - The county's existing regulations that are applicable to areas designated by the BMCP as a Significant Natural Resource would not change. The implementation of those requirements by either the city or the county should be the same.
 - Through the upcoming implementation of the countywide Goal 5 and Healthy Streams Program, uniform development requirements for water and riparian related resources will be developed and used by the county and the cities. Consequently, there should be no difference between the city and county's standards for these resources.
 - The city's standards for the removal of trees and vegetation in areas that are not designated by the BMCP as a Significant Natural Resource would be replaced by the county's standards. Changes to the county's standards would not be considered through this alternative because they apply on a countywide basis.

- 4. Development is not in character with existing surrounding development
 - This concern could only be considered in a limited manner because the type of changes that could be made to the Framework Plan and the CDC would be limited to the Bull Mt. area. These documents, however, are designed to be applied countywide. Limited changes to these regulations would make it difficult to address neighborhood compatibility and design and architectural concerns.
- 5. Improvements to the transportation system
 - This alternative would not consider amendments to the county's transportation plan and road standards. Therefore, future improvements to the collectors and the arterial in the area would be designed to be consistent with current requirements.

County 2000:

• This alternative is not consistent with County 2000.

Potential Measure 37 Impacts:

This alternative would have more potential M-37 impacts than Alternative 1 because it could also result in changes to the Framework Plan and the CDC.

Expense ranking to update the community plan: 3rd

Ranking of potential amendments to the community plan: 3rd

Ranking of potential to address citizens' concerns: 2nd

Ranking of cost effectiveness to address citizens' concerns: 2nd

Alternative 3 - County Updates the BMCP Through an Update of its Comprehensive Plan

Scope of Work: The county would repeal Tigard's comprehensive plan and development standards. In their place, the county could adopt county land use designations different from those in the BMCP and an amended Framework Plan and CDC. Consideration of amendments to other elements of the county's Comp Plan, such as the transportation element, could also occur under this alternative.

Updating the BMCP under Alternative 3 would be a *massive* undertaking for the county because it would basically be an update of the county's Comp Plan for the urban area. The Framework Plan, the CDC, the other community plans, and other elements of the Comprehensive Plan that are applicable to urban unincorporated Washington County would all have to be addressed. An update of the Comp Plan would require the participation of all residents, property owners and businesses in the urban unincorporated areas and urban CPOs. This alternative would consider countywide issues and opinions and the changes to the Comprehensive Plan would be applicable countywide.

Key Citizen Issues: There is the potential to consider some key issues.

- 1. Reduce the overall planned density of the BMCP
 - The overall planed density of the area could not be reduced because there would be no other area to transfer the density to.
 - As with Alternatives 1 and 2, density could be reallocated within the area provided there was no overall loss of planned density in order to maintain compliance with the Metropolitan Housing Rule and Title 1. Again, any change in density that is less than the R-6 District's density would have to be reassigned to other vacant properties in the Bull Mt. area.
- 2. The density of new development should not exceed the maximum density of the R-6 District
 - Tigard's land use districts would be replaced by the county's land use districts in this alternative. However, as previously discussed, the density of Tigard's R-7 District is lower than the county's R-6 District.
- 3. Standards for the removal of trees and vegetation
 - The county's existing regulations that are applicable to areas designated by the BMCP as a Significant Natural Resource would not change with the exception of water and riparian related resources. The standards for those resources will be developed through the countywide Goal 5 and Healthy Streams Program.
 - The city's standards for the removal of trees and vegetation in areas that are not designated by the BMCP as a Significant Natural Resource would be replaced by the county's standards. Changes to the county's existing standards could be considered provided they are applicable on a countywide basis.
- 4. Development is not in character with existing surrounding development:
 - Alternative 3 would allow neighborhood compatibility and design and architectural
 concerns to be considered. However, in order to address the type and level of
 compatibility and design and architectural considerations identified in the Tigard
 Planning White Paper, the county would have to change a fundamental underlying policy
 of its Comp Plan. This policy, which the Framework Plan, the community plans and the
 CDC are based upon is:

The county will not address aesthetics and architectural design unless it is required to do so by state or regional requirements. Instead, the county will limit its regulations to basic zoning issues and rely upon the market to address aesthetics and architectural design.

If this fundamental policy is not changed, many of the citizen's concerns about compatibility and design would not be addressed. For example, staff determined that the proposed CDC changes recommended by the CCI Code Report to address residential compatibility issues were not consistent with this fundamental policy¹¹. Consequently, these changes were not approved as part of the Planning Division's work program.

¹¹ See Issue Paper 8

- A countywide update of the urban component of the county's Comp Plan may or may not result in changes that are consistent with the desires of Bull Mt. residents because the Comp Plan is applicable countywide.
- 5. Improvements to the transportation system
 - This alternative provides the potential to consider amendments to the county's transportation plan and the county's road standards. Therefore, it could be possible to consider the use of enhanced streetscapes and "green streets".
 - This alternative provides the potential to provide a venue to examine how to improve Hwy. 99. However, this study could not occur without ODOT leading the study.

County 2000: This alternative is not consistent with County 2000.

Potential Measure 37 Impacts:

This alternative would have far more potential M-37 impacts than Alternatives 1 and 2 because it could result in changes to the land use designations in the community plans, the Framework Plan and the CDC that would be applicable to all of urban unincorporated Washington County.

Expense ranking to update the community plan: 7th It is the most expensive alternative.

Ranking of potential amendments to the community plan: 4th

Ranking of potential to address citizens' concerns: 4th

Ranking of cost effectiveness to address citizens' concerns: 3rd

Alternative 4 - Tigard Updates the BMCP in Conjunction with its Comprehensive Plan Update

Scope of Work: Tigard would update the BMCP in conjunction with its upcoming update of its comprehensive plan. Tigard said its plan update will be a comprehensive update of its plan, including a review of its land use designations, development regulations, and procedures and public facility plan. The city will develop a public involvement program for public outreach and participation with the help of community members. Washington County would provide limited assistance to the city since the county must adopt its own land use ordinances to implement the city's final plan for the unincorporated area.

Key Citizen Issues: All key issues could be considered.

• This alternative provides the opportunity to consider all citizen concerns because: 1) the community plan and the underlying plan policies and development regulations could be amended through the city's update process; 2) the potential to reassign planned density to the city of Tigard is provided; 3) Bull Mt. and Tigard residents share similar concerns about planning issues as described in the discussion about the city's White Paper on Planning, and 3) key concerns the Tigard Council identified to be addressed this year address some of the citizens' issues. They include making improvements to Hwy. 99 to make it work better and

look better, amending the city's development standards for planned developments, and acquiring park and open space land in the Bull Mt. area.

- 1. Reduce the overall planned density of the BMCP
 - Alternative 4 provides the opportunity to consider reassigning density from the Bull Mt. area into the city.
 - There is the opportunity to consider using one or more of Tigard's lower density residential districts in the area as discussed earlier in this paper. The density of Tigard's R-4.5, R-3, R-2 and R-1 are all lower than the county's R-5 District. One or more of these districts could be used to reduce density in Bull Mt.
- 2. The density of new development should not exceed the maximum density of the R-6 District
 - As noted previously, Tigard's single family residential districts are less dense than Washington County's R-6 District.
- 3. Standards for the removal of trees and vegetation
 - Through the upcoming implementation of the countywide Goal 5 and Healthy Streams Program, uniform development requirements for water and riparian related resources will be developed and used by the county and the cities. Consequently, there should be no difference between the city and county's standards for these resources.
 - This alternative could examine the continued use of the county's requirements for areas of unincorporated Bull Mt. that are designated as Wildlife Habitat.
 - Amendments to the city's standards for the removal of trees and vegetation in areas that are not designated by the BMCP as a Significant Natural Resource could be considered.
- 4. Development is not in character with existing surrounding development:
 Alternative 4 provides a much better opportunity than Alternatives 1, 2 and 3 to address this concern. Alternative 4 would allow neighborhood compatibility and design and architectural concerns to be considered because the underlying plan policies and development regulations could be changed. And as noted previously, concerns of city residents are similar to those of Bull Mt. area residents. For example, the city is currently examining proposed amendments to its standards for Planned Developments, which would address some of the issues identified in the White Paper on Planning.
- 5. Improvements to the transportation system
 - This alternative provides the potential to consider amendments to the county's transportation plan and the county's road standards. Therefore, it could be possible to consider the use of "green streets" designs or enhanced streetscapes.
 - This alternative provides the opportunity to examine how to improve Hwy. 99. A key goal of Tigard's Council is improving the highway from an operational and aesthetics point of view. 12 The city can more effectively address these concerns because the adjacent properties are in the city. Consequently, the city has the opportunity to work with ODOT to study needed improvements, such as access management, enhanced streetscape standards and improvements to parking and buildings fronting the highway.

¹² Cityscape Newsletter (March/April 2005 edition)

However, as noted in Alternative 2, issues related to improvements to the highway could not occur without ODOT leading the study.

County 2000: This alternative is consistent with County 2000.

Potential Measure 37 Impacts:

Alternative 4 would have the potential for more M-37 impacts in the Bull Mt. area than the first three alternatives because Alternative 4 could allow the planned density of the area to be reduced. Alternative 4 would have the potential for fewer total M-37 impacts than Alternative 3 because Alternative 3 deals with a much smaller geographic area.

Expense ranking to update the community plan: 5th

Ranking of potential amendments to the community plan: 7th

Ranking of potential to address citizens' concerns: 7th

Ranking of cost effectiveness to address citizens' concerns: 7th

Alternatives 1A, 2A, 3A, and 4A – Update the BMCP in Conjunction with the Bull Mt. UGB Expansion Areas

Scope of Work: Alternatives 1A through 4A use the same scope of work as the first four alternatives but <u>also</u> include the planning of Areas 63 and 64. The following analysis describes how Alternatives 1 through 4, carried out in conjunction with planning Areas 63 and 64, address each factor. The combined alternatives, which are identified as Alternatives 1A, 2A, 3A, and 4A, correspond to the first four alternatives in the following manner:

- Alternative 1A = Alternative 1 + the planning of Areas 63 and 64.
- Alternative 2A = Alternative 2 + the planning of Areas 63 and 64.
- Alternative 3A = Alternative 3 + the planning of Areas 63 and 64.
- Alternative 4A = Alternative 4 + the planning of Areas 63 and 64.

Currently, the county has committed to plan the North Bethany UGB expansion area due to a unique set of circumstances applicable to that area. No decisions have been made yet about which local government will do the planning for the Bull Mt., Cooper Mt. and 209th Avenue UGB expansion areas.

The county does not plan to update its Comprehensive Plan in order to do the planning for the North Bethany area. The county plans to use the existing Framework Plan and land use designations (R-5, R-6, etc.) to do that work. Therefore, Alternatives 1A and 2A are based upon the county using the existing Framework Plan and its existing land use districts to do the planning for the Bull Mt. expansion areas. Alternatives 3A and 4A are also based upon the premise that the county or Tigard could use its existing land use districts or develop new or

modified land use districts through an update of their respective comprehensive plans as described in Alternatives 3 and 4.

Key Citizen Issues

- 1. Reduce the overall planned density of the BMCP
 - Alternatives 1A, 2A and 3A: updating the BMCP in conjunction with planning Areas 63 and 64 provides the opportunity to reallocate planned density from Bull Mt. to these areas. Using the county's R-5 District would provide limited potential to reduce the density because its density is slightly lower than the density of Tigard's R-7 District. Alternative 3A provides the opportunity to create a new county single family district with a lower density requirement through an update of the county's Comprehensive Plan.
 - Alternative 4A: This alternative provides the greatest opportunity to reduce the density in the Bull Mt. area because there would be two potential areas to assign density to.
 - Due to the topography and natural resources in Areas 63 and 64, the potential to accept density from the Bull Mt. area may be limited.
- 2. The density of new development should not exceed the maximum density of the R-6 District
 - The use of the county or city's existing land use designations would not be different than described under Alternatives 1, 2, 3 and 4. The R-5 District could result in slightly lower densities. Tigard's R-4.5, R-3, R-2 and R-1 would result in densities lower than the county's R-5 and R-6 Districts.
- 3. Standards for the removal of trees and vegetation
 - There would be no change to the provisions for tree and vegetation removal described under Alternatives 1, 2, 3 and 4.
- 4. Development is not in character with existing surrounding development
 - All alternatives updating the BMCP in conjunction with planning Areas 63 and 64 would not change how this factor would be addressed.
- 5. Improvements to the transportation system
 - All alternatives updating the BMCP in conjunction with planning Areas 63 and 64 would not change how this factor would be addressed.

County 2000:

All alternatives: updating the BMCP in conjunction with planning Areas 63 and 64 would not change each alternative's consistency with County 2000.

Potential Measure 37 Impacts:

- Alternatives 1A, 2A and 3A: the potential for M-37 impacts is greater than Alternatives 1, 2 and 3 due to the potential to move density from the Bull Mt. area, which could result in the down zoning of vacant properties.
- Alternative 4A: the potential for M-37 impacts is greater than Alternative 4 due to the increased potential to move density from the Bull Mt. area, which could result in more vacant properties being down zoned.

DRAFT ISSUE PAPER NO. 18 Bull Mt. Community Plan Update June 28, 2005 Page 24

• Alternative 3A: Alternative 3A has the potential to have greatest M-37 impacts amongst all eight alternatives because it has the largest impact area.

Expense:

Alternatives 1A, 2A, 3A, and 4A: Each alternative has the added expense of planning Areas 63 and 64 in comparison to Alternatives 1, 2, 3, and 4, which do not include this planning. However, the added cost to plan Areas 63 and 64 would not be the same for Alternatives 1A, 2A, 3A, and 4A due to their different scopes of work.

- Alternatives 1A, 2A and 3A would have the highest unit cost and the lowest cost effectiveness because Alternative 1 would not update the BMCP and Alternative 2 would only make limited amendments to it. Consequently, planning Areas 63 and 64 require the BMCP to be updated in order to consider reallocating Bull Mt. density.
- Alternative 3A would be the most expensive because it implicates the planning of the North Bethany UGB expansion area. Alternative 5.4 has the least added cost because Alternative 4 would update the BMCP and consider moving density from Bull Mt. to the city. These factors also make this alternative the most cost effective

The ranking of Alternatives 1A, 2A and 3A are shown in the charts below. Chart A shows the ranking of the eight alternatives in order of cost from least expensive (1) to most expensive (8). Chart B shows the ranking of the alternatives for their potential to make the most amendments to the BMCP and address the most citizen concerns. The alternatives are ranked from highest (8) to lowest (1). The ranking of the alternatives' cost/benefit to update the BMCP and the cost/benefit to address citizen issues are shown in Chart C.

Chart A
Ranking of Planning Alternatives based on Cost

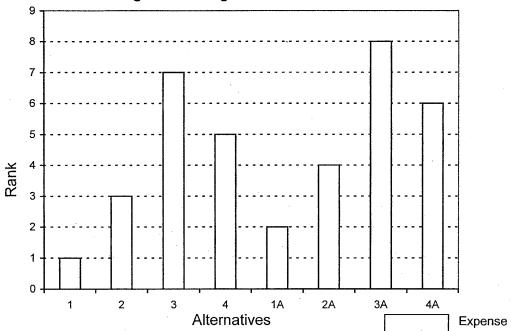


Chart B
Ranking of Planning Alternatives based on the level of Potential
Amendments to Update the Bull Mt. Community Plan (BMCP) and
Address Citizen's Issues

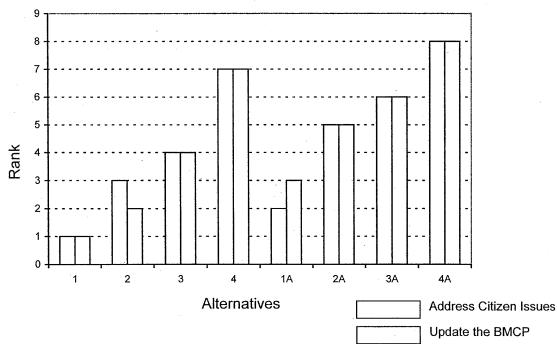
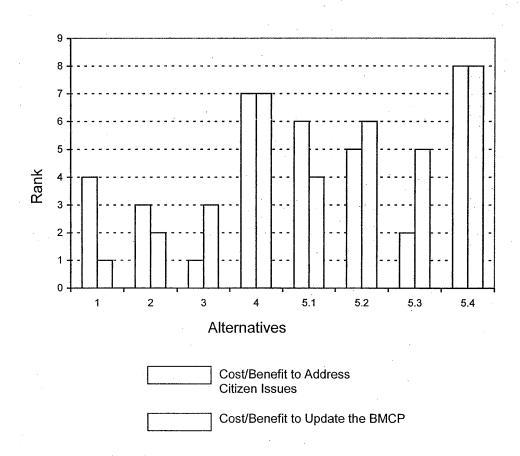


Chart C
Cost/Benefit to Update the Bull Mt. Community Plan (BMCP)
and Address Citizen Issues



S:\Ping\WPSHARE\2005ord\Work Program\Issue Papers\Bull Mt Papers\IP18\IP 18 update com plan final draft 6-28-05.doc



WASHINGTON COUNTY OREGON

June 28, 2005

DRAFT PLANNING DIVISION ISSUE PAPER NO. 21

Planning Bull Mt. UGB Expansion Areas 63 and 64

Issue

Through the Planning Division's 2005 work program, the Board of County Commissioners (Board) directed staff to prepare seven issue papers about planning and park issues in the urban unincorporated Bull Mt. area. Issue Paper 21 discusses issues associated with planning the expansion of the urban growth boundary (UGB) in the Bull Mt. area, commonly referred to as Areas 63 and 64.

Recommendation

Based upon the analyses in this Issue Paper and Issue Papers 15, 16, 17 and 18, staff recommends that the City of Tigard do the planning of Areas 63 and 64. Washington County would participate in the transportation planning to assess impacts to existing county facilities.

Background

At the Board's request, the Planning Division has prepared seven issue papers that address planning and park issues associated with the urban unincorporated Bull Mt. area. Five issue papers address density, parks, updating the Bull Mt. Community Plan, and amendments to the Washington County / Tigard Urban Planning Area Agreement. The seventh issue paper (IP 14) addresses CPO 4B's request for a public facility strategy / development moratorium for the Bull Mt. area.

In December 2004, the Board and the Tigard City Council (Council) held a joint meeting to discuss a number of issues about the Bull Mt. area that had been raised by area residents. The Board and the Council expressed a desire to work together to develop a planning program that could address residents' concerns, primarily through the upcoming planning efforts of the city. The Council indicated the city would soon begin the following planning activities: 1) update the comprehensive plan for its downtown area [underway], 2) update its park master plan, and 3) update its comprehensive plan. At that time the Council also said it may be interested in examining if Bull Mt. density could be transferred to the city through its comprehensive plan update.

At the conclusion of the meeting, the Board directed the county Planning Division to prepare, in consultation with Tigard, issue papers on park planning (Issue Papers15 and 16), the potential to decrease density in the Bull Mt. area (Issue Paper 17), updating the Bull Mt. Community Plan (Issue Paper 18) and planning the Bull Mt. UGB expansion areas (Issue Paper 21). The Board also asked staff to include an assessment about how to address these issues in conjunction with

Phone: (503) 846-3519 • Fax: (503) 846-4412 • www.co.washington.or.us

Tigard's update of its comprehensive plan and park master plan, and planning UGB expansion Areas 63 and 64.

Jim Hendryx, Tigard's Community Development Director, said the Council is interested in doing the comprehensive planning for Areas 63 and 64 as well as updating the Bull Mt. Community Plan. This work would include an examination of transferring density from Bull Mt. to the city and Areas 63 and 64. If the city does this work, it would be done in conjunction with the city's upcoming update of its comprehensive plan.

Analysis

In 2002, Metro made a major expansion to the UGB. In the Bull Mt. area, Areas 63 and 64 were added to the UGB. Together, they total 483 acres. In response to requirements of Title 11 in Metro's Urban Growth Management Functional Plan (Functional Plan), Washington County designated these areas as FD-20 in 2004 by Ordinance 515 (map attached). The FD-20 District¹ provides interim protection to the UGB expansion areas from new development that could interfere with future urban uses. The FD-20 designation will be maintained until the required planning of the UGB expansion areas has been completed and adopted. Ordinance 615 added Areas 63 and 64 to the Bull Mt. Community Plan, with the exception of the area north of Scholls Ferry Road. That area was added to the Aloha-Reedville-Cooper Mt. Community Plan. The Bull Mt. Community Plan identifies these areas as the Western Slopes Subarea.

Metro Planning Requirements

Title 11 of the Functional Plan requires the local comprehensive plan provisions for UGB expansion areas to include at a minimum "an urban growth plan diagram and policies that demonstrate compliance with the RUGGO², including the Metro Council adopted 2040 Growth Concept design types." This plan is commonly referred to as a "concept plan." Development of the UGB expansion areas to urban uses cannot occur until this planning is completed. Currently, no planning analysis of Areas 63 and 64 has been done.

Specific minimum requirements that all concept plans must address are:

- provision for annexation to appropriate service provider districts for required urban services
- average residential densities of at least ten units per net acre (or as appropriate for assigned 2040 Growth Concept design type)
- a diversity of housing stock, including affordable housing
- sufficient commercial and industrial development for the area's needs
- a conceptual transportation plan that addresses future transportation needs
- a conceptual public facilities and services plan for sewer, water, storm drainage, transportation, parks, and police and fire protection
- a conceptual school plan that provides for the amount of land improvement needed for school facilities to serve the expansion area
- programs for the protection of water quality, natural hazard and natural resource areas;

¹ Future Development 20 Acres

² Metro's Regional Urban Growth Goals and Objectives

 concept maps addressing all of the above and showing general locations for mixed use and commercial areas

The minimum requirements that a concept plan must include are:

- general locations for single and multi-family housing, mixed use areas, and commercial and industrial lands
- general locations for public open space, plazas and neighborhood centers
- general locations or alternative locations for needed school, park or fire station sites
- general locations of arterial, collector and essential local streets and street connections
- general locations of public facilities such as sewer and water to demonstrate the area can be served
- locations of steep slopes and other constrained lands such as wetland, flood plain and riparian areas

The key provision of the Metropolitan Housing Rule³ that is applicable to the UGB expansion areas is providing the opportunity for at least 50% of new residential dwellings to be attached single family (town house) or multi-family housing (apartments). Compliance with the Functional Plan's density standards of an average density of 10 dwelling units per acre will satisfy the Metro Housing Rule's density requirement for urban unincorporated Washington County of eight dwellings per net acre.

County 2000

County 2000 is Washington County's strategic plan which guides how the county provides services. County 2000 changed the focus of county service provision. It calls for the county to provide countywide services (e.g., health, aging and veteran services; maintain and operate a countywide road system) and move away from municipal types services (e.g., maintaining the local street system, neighborhood level planning). Fundamental changes were made to the county's long range planning program through County 2000. Rather than performing neighborhood level planning services, the county now focuses on participating in countywide, regional and state planning activities rather than updating its community plans. Consequently, the county's long term policy for the urban unincorporated areas calls for these areas to be eventually served by a city.

Consistent with County 2000, the county desires the planning of the UGB expansion areas to be done by cities. Currently, the county has only committed to plan one expansion area, North Bethany, due to its unique circumstances. No decisions have been made yet about which local government will do the planning for the Bull Mt., Cooper Mt. and 209th Avenue UGB expansion areas. However, when the UGB was expanded, it was anticipated by Washington County that Tigard would do the planning of Areas 63 and 64. All of the other expansion areas in Washington County are being planned by cities.

³ Oregon Administrative Rule 660-007

Alternatives to Plan Areas 63 and 64

At a minimum, Title 11 requires the adoption of a concept plan for Areas 63 and 64. A concept plan may be a generalized plan indicating the type and general location of land uses and infrastructure or it may be a more specific plan similar to the county's community plans. A concept plan could also be as detailed as the plans adopted for the Light Rail Station Area communities and Tigard's Washington Square Regional Center Plan. The following discussion provides a generalized description of two alternative approaches to planning Areas 63 and 64. Each alternative assumes the county and city's transportation plans will be updated as part of the planning of Areas 63 and 64. Impacts to Hwy. 99 would also be considered by the Oregon Department of Transportation (ODOT).

Alternative 1 – Prepare a new Community Plan

Alternative 1 would create a plan that is similar in detail to the county's current community plans. It would include:

- specific land use designations for all properties
- the location of Significant Natural Resources and other constrained areas
- general and specific design elements which address generalized and specific planning issues
- the general location of the transportation system (e.g., new arterials or collectors)
- an analysis of impacts to the transportation system from development of Areas 63 and 64

Planning Areas 63 and 64 would be based upon the provisions of Washington County's:

- Comprehensive Framework Plan for the Urban Area (Framework Plan), including the county's existing land use designations
- 2020 Transportation Plan
- The development standards and procedures of the county's Community Development Code (CDC).

Alternative 2 – Prepare a more detailed Community Plan

This alternative would create a plan that is similar in detail to the county's plans for Light Rail Station Area communities and Tigard's Washington Square Regional Center Plan. In addition to including the elements of Alternative 1, Alternative 2 would include more detailed planning to address specific development issues and design concerns, such as the design of a Main Street.

Work Tasks

Staff believes the following tasks should be part of any alternative to plan Areas 63 and 64:

- 1. Develop and implement a public involvement program. Property owners, nearby residents and Citizen Participation Organizations (CPOs) and city planning organizations should be asked to participate.
- 2. Coordinate the planning with the countywide Agricultural Economy / Urban Reserve Area Study. This study, which will determine the need for long-term protection of certain specific agricultural lands and the identification of land to accommodate future urban growth, will identify *potential* future urban reserve areas in this part of the county. This information will

help shape the future development of Areas 63 and 64 and the potential location and size of public facilities to serve the area.

- 3. Coordination with service providers, school districts, ODOT, along with other nearby local governments that will not serve the area directly, such as King City, Tualatin and Sherwood.
- 4. Develop a park and recreation master plan for the area that also considers the needs of the existing urban areas of Bull Mt. A funding plan, Capital Improvement Plan, and a program to maintain and operate parks should also be developed.

Comparison of Planning by Washington County and Tigard Planning Programs
Using each jurisdiction's existing comprehensive plans, including land use districts and development standards, and upcoming planning initiatives, staff has prepared the following generalized description of key planning parameters and how the county and city would likely address the concerns of Bull Mt. residents that were identified in Issue Papers 17 and 18.

Washington County

- 1. Washington County would plan Areas 63 and 64 using the policies and strategies of its existing Framework Plan, including its existing land use districts, and the county's Transportation Plan, and the existing development standards and review procedures in the county's Community Development Code (CDC).
- 2. The county may or may not consider assigning density from existing Bull Mt. to Areas 63 and 64. This task would require the county to update the Bull Mt. Community Plan. As discussed in Issue Papers 17 and 18, the county no longer performs updates to its community plans due to the requirements of County 2000.
 - However, as noted in Issue Papers 17 and 18, using the county's R-6 District will not lower existing densities in the Bull Mt. area because it is denser than Tigard's R-7 District. Using the county's R-5 District, the county's lowest density residential district, could have the potential to slightly decrease the density of the area. In order to effectively lower densities, a new, less dense single family district would have to be created, which would be inconsistent with the Framework Plan. Also, the creation of new land use districts and developments does not fit the general planning parameters described in No. 1 above.
- 3. The county would not be able to address other key citizen concerns about neighborhood compatibility, architectural and streetscape design. As described in Issue Paper 18, the existing policies in the Framework Plan and the existing CDC standards do not address these issues in the manner suggested by Bull Mt. residents. citizen concerns about neighborhood compatibility, architectural and streetscape design.⁴
- 4. The county would continue to apply its existing regulations for Significant Natural Resources to existing Bull Mt. and Areas 63 and 64.

⁴ Also see Issue Paper 8.

- 5. Washington County would have to develop a program to fund, construct, maintain and operate parks since the county is not a parks provider. Currently, the county does not have a dedicated funding source to develop or maintain parks.
- 6. Tigard and the Oregon Department of Transportation (ODOT) would participate in the transportation planning to assess impacts to their existing facilities.
- 7. Timing of planning due to a number of large multi-year planning programs the county has underway, the earliest the county could begin to plan Areas 63 and 64 is 2007. The county planning programs currently underway include:
 - the countywide Goal 5 and Healthy Streams Program, to be completed in 2006
 - the countywide Agricultural Economy / Urban Reserve Area Study, which will begin later in 2005
 - planning the North Bethany UGB Expansion area, which will begin later in 2005
 - developing a Funding Plan for the county's new transportation plan
 - continued preparation of urban service agreements for areas outside of the Tigard and Hillsboro Urban Service Areas

City of Tigard

- 1. Tigard would plan Areas 63 and 64 in conjunction with the update of its comprehensive plan in 2006. The city has offered to carry out a comprehensive, integrated community wide planning program to plan all of Bull Mt. The city would update the Bull Mt. Community Plan and develop the plan for Areas 63 and 64 in conjunction with the update of its comprehensive plan. Since 1986, about one third (589 acres) of the community plan north of Beef Bend Road has have annexed to the City of Tigard. The city's proposed comprehensive update to all of Bull Mt., incorporated and unincorporated urban areas and Areas 63 and 64, would allow the entire Bull Mt. community to be examined.
- 2. Tigard said it would examine the assignment of density from existing Bull Mt. to Areas 63 and 64 if it plans those areas. The density requirements of the city's existing single family residential land use districts, the R-7, R-4.5, R-3, R-2 and R-1 Districts, are lower than the county's R-6 District. The density requirements of the city's R-4.5, R-3, R-2 and R-1 Districts are also lower than the county's R-5 Districts. Using the city's lower residential districts in the existing Bull Mt. area provides greater opportunity to transfer density from Bull Mt. to Areas 63 and 64 than is permissible under county requirements.
- 3. Tigard's update to its comprehensive plan and land use regulations provide the city the opportunity to develop new land use districts, policies and development standards to plan Areas 63 and 64 and address issues in existing Bull Mt. Consequently, there is the opportunity address other key citizen concerns about neighborhood compatibility, architectural and streetscape design.
- 4. Through its comprehensive plan update, the city could continue to apply the county's current standards for Significant Natural Resources to Areas 63 and 64 and existing Bull Mt.

- 5. The city will update its Park Master Plan and Capital Improvement Plan in 2006. The city could readily address Areas 63 and 64 through this update. It could also readily update its park system development charge to address these areas. When Tigard updated its park SDC methodology report and SDC rates in late 2004, it identified the need for a large community park in Areas 63 and 64, which would also serve existing Bull Mt.
- 6. The city could begin to plan Areas 63 and 64 and update the community plan in early 2006 when it begins to update its comprehensive plan.
- 7. Washington County and ODOT would participate in the transportation planning to assess impacts to their existing facilities.

Measure 37

Measure 37 (M-37) was approved by Oregon voters in November 2004. M-37 requires compensation for land use regulations that reduce the value of property when the land use regulation was adopted after the current property owner or family member acquired the property. In lieu of compensation, the governmental agency that adopted the regulation may waive the regulation and permit development under the prior land use requirement.

The effect of M-37 on properties recently added to the UGB will generally be different than the measure's effect on existing urban properties. The existing land use designations for properties added to the UGB are rural and do not allow development of urban uses. Consequently, the adoption of a comprehensive plan for these areas will *increase* the value of the properties because it will allow increased development. However, there may be particular conditions or circumstances that could implicate M-37. In order to reduce potential future M-37 claims, property owners in Areas 63 and 64 should be involved very early in any planning process.

Summary and Conclusion

If Washington County is designated to plan Areas 63 and 64, the county would use its existing Framework Plan, land use districts and development standards. The county's existing land use districts will not provide much opportunity to transfer density from existing Bull Mt. to Areas 63 and 64 because of their density requirements. The county's policies and development standards will not address residents concerns about with neighborhood compatibility and architectural design to the extent desired by residents in the Bull Mt. area.

Tigard's proposal to plan all of the Bull Mt. area in conjunction with the update of the city's comprehensive plan provides the opportunity to transfer much more density from existing Bull Mt. to Areas 63 and 64 because its single family residential districts are less dense than the county's R-5 and R-6 Districts. An update of the city's comprehensive plan also provides the opportunity to address residents concerns about neighborhood compatibility and architectural design to the extent desired by residents in the Bull Mt. area through the creation of new or modification to existing policies and development standards.

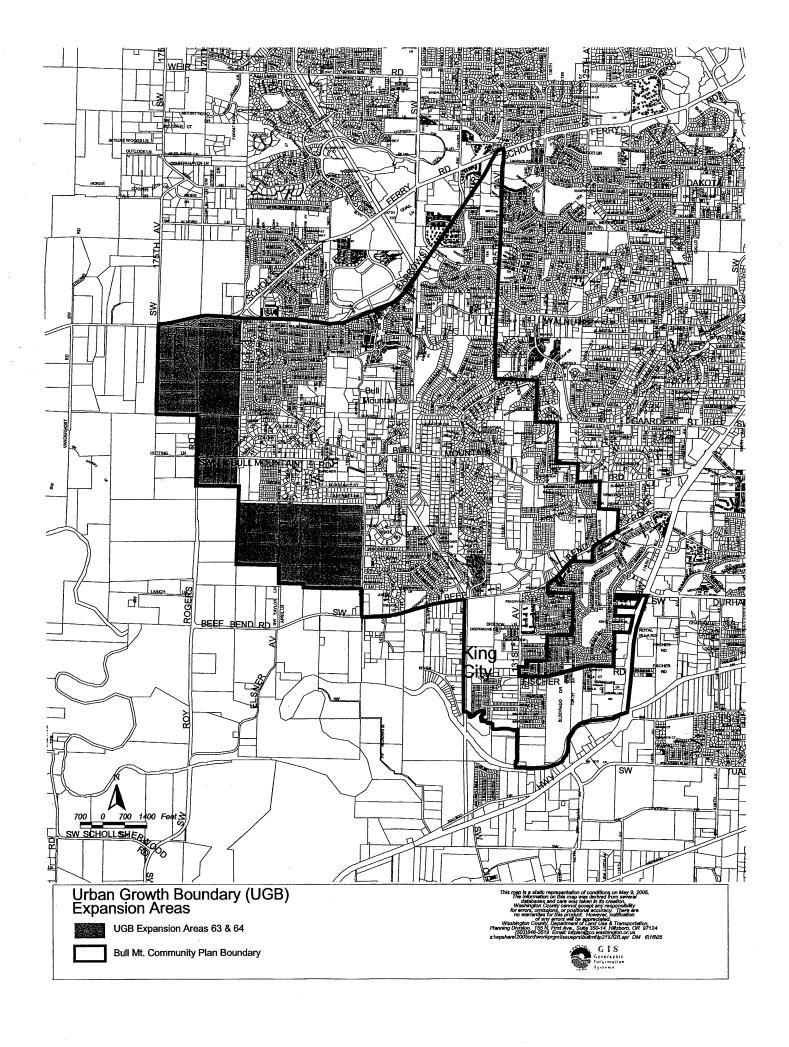
DRAFT ISSUE PAPER NO. 21 Planning Areas 63 and 64 June 28, 2005 Page 8

If Tigard plans Areas 63 and 64, work could begin in early 2006 whereas the earliest the county could begin the work is in 2007.

Planning for and providing parks in the Bull Mt. area can be accomplished more readily by Tigard because it is a park provider and the elements of its park program already address the Bull Mt. area. On the other hand, Washington County is not a parks provider and it has no funding or programs in place to provide these services. The creation of a county park program to address the Bull Mt. area would not be consistent with County 2000.

Finally, assigning planning responsibility for Areas 63 and 64 to Tigard would be consistent with County 2000. The county's role would be to participate in the transportation planning and implement the final plan developed through the city, tasks that are consistent with County 2000.

wpshare\2005ord\work program\issue papers\Bull Mt\IP 21 Planning Areas 63 and 64 final draft 6-28-05





WASHINGTON COUNTY

OREGON

June 28, 2005

DRAFT PLANNING DIVISION ISSUE PAPER NO. 22

Amendments to the Washington County / Tigard Urban Planning Area Agreement

Issue

On March 15, 2005, the Washington County Board of Commissioners (Board) directed staff to prepare an issue paper to address the City of Tigard's request to amend the Washington County / Tigard Urban Planning Area Agreement (UPAA). The proposed amendments would allow the City of Tigard to develop the comprehensive plan for the Bull Mt. UGB expansion areas and update the Bull Mt. and Metzger Community Plans.

Recommendation

Authorize staff to file an ordinance to amend the County / Tigard UPAA to assign responsibility to the City of Tigard for comprehensive planning in urban unincorporated Bull Mt. and UGB expansion Areas 63 and 64. The transfer of responsibilities would be executed through an intergovernmental agreement between Washington County and the City of Tigard.

Background

As noted in the attached March 14, 2005 letter from Jim Hendryx, the Tigard City Council (Council) said it is interested in doing the planning of Areas 63 and 64 and updating the Bull Mt. and Metzger Community Plans. The Council indicated the city could do this work in conjunction with the city's upcoming comprehensive plan update.

This paper addresses changes to the UPAA related to updating the Bull Mt. Community Plan and planning Areas 63 and 64. It does not consider amendments related to updating the Metzger Community Plan. Staff believes an update of the Metzger Plan should not be considered at this time. Please see Issue Paper 18 for information about how the Bull Mt. Community Plan could be updated. Issue Paper 21 examines the planning of Areas 63 and 64.

Analysis

The County / Tigard UPPA defines the areas of the Tigard Urban Service Area for which the county and Tigard are responsible for providing development review and comprehensive planning services. As part of its new 1983 Comprehensive Plan, the county and each city were required to enter into an urban planning area agreement. The UPAAs define the urban areas each city has an interest in planning.

Phone: (503) 846-3519 • Fax: (503) 846-4412 • www.co.washington.or.us

The County / Tigard UPAA defines the responsibilities of the county and City of Tigard, including the geographic areas they are responsible for. The current UPAA boundary does not include Areas 63 and 64. Maps of the current UPAA boundary and Areas 63 and 64 are attached.

The UPAA defines two planning areas, Tigard's Active Planning Area and Tigard's Area of Interest (map attached). The UPAA defines the city's Active Planning Area as the incorporated and unincorporated areas where the city has responsibility for comprehensive planning and desires to regulate development to the greatest extent possible. The UPAA defines Tigard's Area of Interest as the unincorporated areas where the city does not have comprehensive planning responsibilities but maintains an interest in planning and development. Currently, most of Tigard's Active Planning Area is in the city due to annexations over the past two decades. On May 12, 1997, the county assigned to Tigard the responsibility for land development, building and code enforcement services in the urban unincorporated Bull Mt. area. The county maintained responsibility for comprehensive land use and transportation planning in this area. The UPAA currently assigns the following responsibilities to the county and city:

City of Tigard is responsible for:

- Development review: in the Active Planning Area and in the urban unincorporated areas of Bull Mt. located in Tigard's Area of Interest.
- Comprehensive land use and transportation planning: in the Active Planning Area.

Washington County is responsible for:

- Development review: the Metzger area, which is located in Tigard's Area of Interest.
- Comprehensive land use and transportation planning: In the Area of Interest, the Metzger and Bull Mt. areas

The analysis and recommendations about park and planning issues in Issue Papers, 15, 16, 17, 18 and 21, all indicate that Tigard is best suited to do the planning to update the Bull Mt. Community Plan and plan Areas 63 and 64. Consequently, staff recommends that the UPAA be amended to assign comprehensive planning responsibility to Tigard for the Bull Mt. area and Areas 63 and 64. Washington County would participate in the transportation planning to assess impacts to existing county facilities. The county would also retain comprehensive planning responsibility for the Metzger area. Staff believes the UPAA should be amended this year so that Tigard can plan Areas 63 and 64 and update the community plan in conjunction with the update of the city's comprehensive plan, which will begin in early 2006. The transfer of responsibilities would be executed through an intergovernmental agreement between Washington County and the City of Tigard.

Through Metro's process to expand the UGB in 2002, the county anticipated that cities would do the planning of the UGB expansion areas in Washington County. For Areas 63 and 64, the county anticipated that Tigard would plan these areas. As discussed in Issue Papers 17 and 18, the county desires the cities to plan the expansion areas because County 2000 limits the type of neighborhood level planning services the county provides. Currently, the county has only committed to do the planning of the North Bethany expansion area due to its unique circumstances.

DRAFT ISSUE PAPER NO.22 County / Tigard UPAA June 28, 2005 Page 3

By law, the Board is the final "decision maker" for changes to the county's Comprehensive Plan, including the community plans. However, the county can assign to Tigard the responsibility to do the planning of the UGB expansion areas and update the Bull Mt. Community Plan. The Board would then adopt a land use ordinance to implement the provisions applicable to unincorporated Washington County. This process was used to develop the Washington Square Regional Center Plan where Tigard was the lead planning agency. (The regional center plan is made up of properties in the cities of Tigard and Beaverton and unincorporated Metzger.) This process was also used to develop some of the Light Rail Station Area plans and do the planning for past UGB expansions. In each instance, a city was the lead planning agency.

Assigning comprehensive planning responsibility to Tigard for the Areas 63 and 64 and the Bull Mt. area would be consistent with the planning model described in the previous paragraph. It would also be consistent with County 2000. Tigard would be the lead planning agency and thus be the municipal service provider as contemplated by County 2000. The county would participate in a limited manner in order to carry out its role as the final decision maker for unincorporated properties, a role that is consistent with County 2000.

wpshare\2005ord\work program\issue papers\Bull Mt\IP 22\IP 22 Tigard UPAA final draft 6-28-05.doc

RECEIVED

MAR 1 4 2005

March 14, 2005

PLANNING DIVISION Land Use & Transportation

Charles D. Cameron, County Administrator Washington County Public Services Building 155 N. First Avenue Hillsboro, OR 07124



RE: 2005 Draft Planning Division and Land Use Ordinance and Work Program

Dear Mr. Cameron:

The Tigard Council has established three goals for 2005. One of these is updating the City Comprehensive Plan. In recognition of this, the City of Tigard has reviewed the 2005 Draft Planning Division and Land Use Ordinance and Work Program and wishes to submit the following comments. We recommend the addition of, as a high priority task, work on amending the Tigard/County Urban Planning Area Agreement (UPAA). This issue is highly important to the City, because it relates to Council's goal to update the Tigard Comprehensive Plan. Defining the scope or geographical reach of this effort is the necessary first step in the planning process.

In addition to the incorporated City, the areas that potentially could be included in the comprehensive plan work scope are: the Bull Mountain unincorporated area, Urban Growth Boundary Areas 63 and 64, and unincorporated Metzger. Together, the incorporated City and these four distinct areas make up a plausible planning area.

Under the Washington County-Tigard Urban Planning Area Agreement, "the County shall be responsible for comprehensive planning... within the Area of Interest." Although Tigard is recognized as the "ultimate governance provider" to all the territory in the Urban Services Area and, under the 1997 Urban Services IGA, currently manages development within unincorporated Bull Mountain, Washington County continues to have jurisdiction over comprehensive planning within all the unincorporated areas. As lands outside the site-specific Area of Interest, the UGB Areas are not subject to the UPAA agreement. In addition, Metro Ordinance No. 02-969B, Urban Growth Boundary, states that "Washington County or, upon annexation of the area... the city shall complete Title 11 planning..." for expansion areas 63 and 64. Until the area is annexed or the UPAA is amended, the County is responsible for the planning.

Tigard intends to undertake an update of its twenty-two year-old comprehensive plan. Council has considered this issue in a series of meetings and has indicated an interest in including its entire area of interest, including the UGB areas, in a broader comprehensive plan work effort. Council's view is that in order to plan for a complete community, the comprehensive planning work scope should include all the eventual annexation areas.

Council has made clear that its interest in planning for the broader area is contingent on the County contributing its resources to the work program. Council is unwilling to proceed without County participation, because including the three areas would drain City resources, with little opportunity for cost recovery.

Significantly, adding the County-Tigard UPAA to the county work plan would carry out the UPAA provision that says "The parties will jointly review this Agreement every two years (2), or more frequently if mutually needed, to evaluate the effectiveness of the process set forth herein and to make any necessary amendments."

The City and County have been and continue to work together on a number of issues of major importance to both jurisdictions, including most recently the Bull Mountain annexation effort and the Commuter Rail/Highway 217 Corridor Revitalization Feasibility Study. In this same spirit of working together for common purposes, we request your cooperation and support for entering into UPAA discussions with Tigard to resolve the issue of the appropriate long range planning provider for the Area of Interest, including the new UGB areas. Including the County/Tigard UPAA in the work plan would facilitate the needed overall policy review related to this issue.

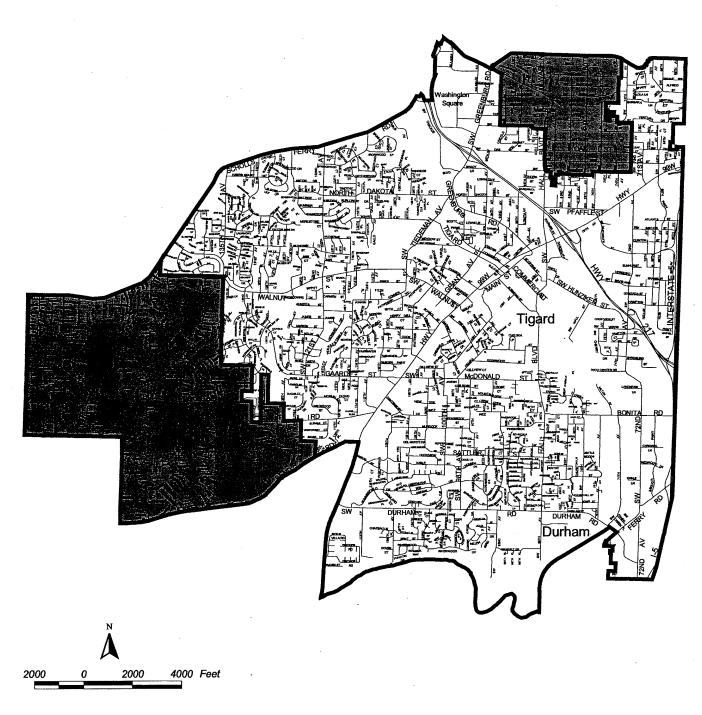
Thank you for your consideration and attention to the important and timely matter of planning responsibility for the Tigard extraterritorial areas.

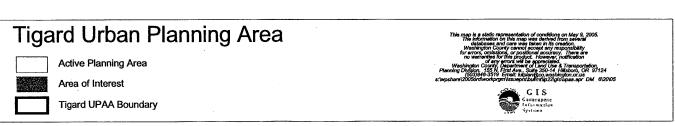
Sincerely,

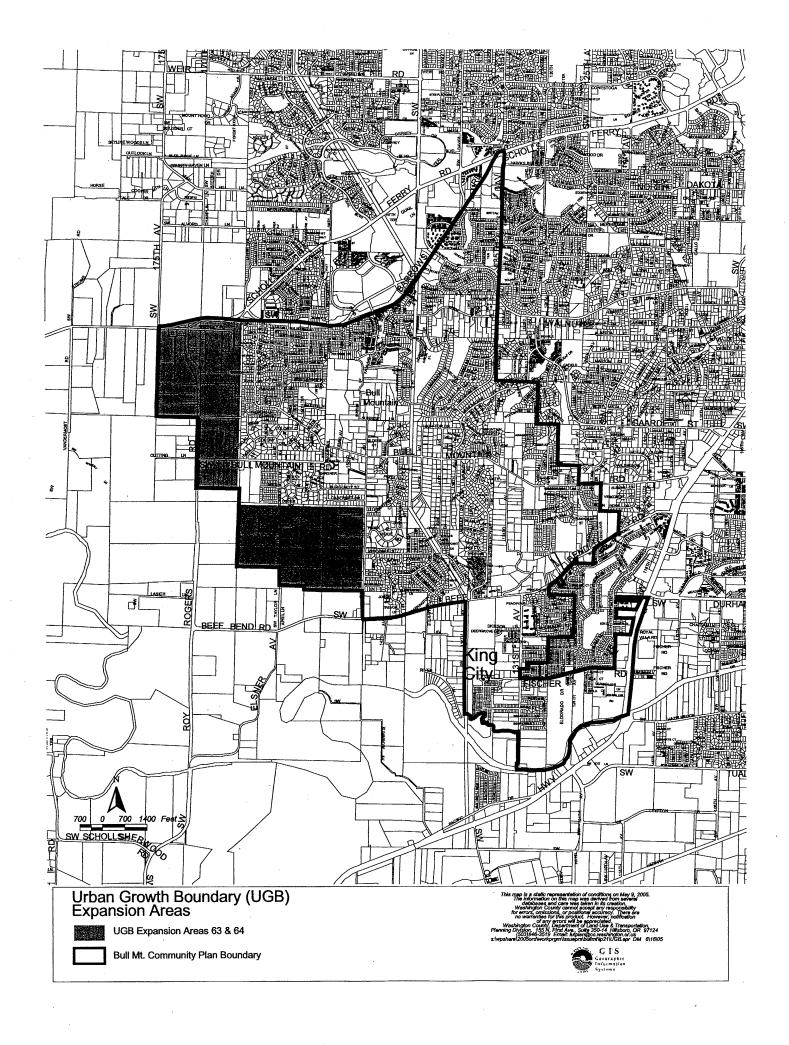
James N.P. Hendryx

Community Development Director

i/lrpn/dr/annex.county.workplan







AGENDA ITEM # _	
FOR AGENDA OF	September 20, 2005

CITY OF TIGARD, OREGON COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE DISCUSSION OF GRAPHIC IDENTITY/BRANDING DESIGN CONCEPTS
PREPARED BY: Elizabeth A. Newton DEPT HEAD OK CITY MGR OK
ISSUE BEFORE THE COUNCIL
Council review of branding/graphic identity design concepts.
STAFF RECOMMENDATION
Review design concepts and provide direction for development of a final design.
INFORMATION SUMMARY
City Council has contracted with Marcusen Design to assist in the development of a new graphic identity for the City. Initial discussions on some concepts were held on July 12 and July 19 (minutes attached). Based on those discussions Mr. Marcusen will present three to four designs for Council review and feedback on September 20. A final design will then be developed.
OTHER ALTERNATIVES CONSIDERED
N/A
VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY
N/A
ATTACHMENT LIST
 July 12, 2005 Council Meeting Minutes July 19, 2005 Council Meeting Minutes
FISCAL NOTES

The contract with Marcusen Design is not to exceed \$10,500.

have one or two meetings. There will be public notices for these meetings. Comments may also be forwarded directly to Interim Finance Director Imdieke.

b. Council members supported the formation of this Task Force in order to look at the overall financial situation of the City and to solicit ideas from the public. Councilor Woodruff suggested an article be placed in the September Cityscape to inform the City residents about the Task Force and solicit comments.

Mayor Dirksen noted that the course the city is on is not sustainable — the City will have to do something different and what's to be done must be based on what citizens suggest.

c. Motion by Councilor Woodruff, seconded by Councilor Harding. to adopt Resolution No. 05-45.

A member of the audience – Roger Potthoff, 11710 SW Ann Street, Tigard, OR asked if the proposed resolution provides for staff time to assist the Task Force. Interim City Manager Prosser responded that the Finance staff will be involved. In addition, it's possible that a student intern could assist. Councilor Wilson added he would hope the Task Force is provided with adequate research resources – technical and legal.

RESOLUTION NO. 05-48 – A RESOLUTION TO ESTABLISH THE FINANCIAL STRATEGY TASK FORCE AND APPOINT MEMBERS TO THE TASK FORCE

The motion was approved by a unanimous vote of Council present:

Mayor Dirksen:

Yes

Councilor Harding:

Yes

Councilor Sherwood:

Yes

Councilor Wilson:

Yes

Councilor Woodruff

Yes

8. DISCUSSION OF BRANDING/GRAPHIC IDENTITY

- a. Assistant to the City Manager Newton introduced this agenda item.
- b. Consultant Marcusen and City Council reviewed an audit of existing print materials and the signage and identities of other cities. A PowerPoint presentation was utilized during the discussion; a copy is on file in the City Recorder's office. The presentation illustrated logos

and seals used by other cities. During the review, Mr. Marcusen pointed out some of the common elements of the designs.

In response to Councilor Woodruff, who noted that the Council was looking for something more significant than a logo, Mr. Marcusen agreed that branding is more of an identity or an embodiment of a City's personality. He referred to building equity in the City's symbol.

Following are some of the comments during the discussion as City Council and Mr. Marcusen worked through ideas:

- Traditional seals many of those cities are older (150 years) whereas Tigard was incorporated in 1961.
- Intrigued by the skill of developers for their creative names and logos, which create an image and a sense of place.
- Don't try to put too much, however, into the logo. Convey an image. The image could be "aspirational."
- The logo could represent a concept or a symbol. People bring meaning to it with the rationale behind it.
- Simplicity is being assaulted; looking for "fresh air." Many of the symbols in the logos are fairly fussy.
- Assess what is germane to Tigard: "This is what Tigard is for
- Don't make a past that wasn't there; or, a history can sometime be created and this can be effective.
- Clean type faces.
- Keep logo simple; develop a more detailed watermark.
- Reviewed the brainstorming ideas developed by the Vision Task Force.
- Ideas: appreciation of nature, motion (transit, commerce), energetic lifestyle, family friendly, Fanno Creek (plans to focus on this more in the future), destination, a place to rest, home, sense of community. Again, a place to call home, as opposed to a geographic place.
- Mr. Marcusen noted the above ideas are good inspirations for design (community, family friendly), but suggested the Mayor Dirksen conveyance might lead to complexity. suggested use of a tag line; i.e., family friendly, or a place to guideline. The statement could also be used as a guideline for decision making.
- Remember inclusiveness when defining "family."
- Maintain an open mind as this collaboration moves forward to Sometimes photographic images can develop symbols. support and reinforce an identity.
- Discussed how to say family friendly without literally saying. For example, the logo for Spain looks as if a child drew it -"approachable."

- There are all types of family structures, but Tigard is home. "Home images" - developers are good at doing this.
- Trails...this is the way home.
- Mr. Marcusen advised that at the next meeting he will bring in more symbols for the City Council to view including some international design examples. He noted many are multicolored, which would be expensive to reproduce.
- Urban village architecture in a stylized form.
- Downtown efforts: preserve and recapture style of older brick buildings, 1890's to 1920's. There has been no discussion yet on design standards for Downtown.
- Ties with the school system, a sense of community, Family Day, a strong sense of family, community values.
- A differentiator for Tigard might be creeks. Values might be difficult to transfer to a symbol, but could use a tag line or develop a motto.
- Tigard's current logo is the only one that is triangular.
- Many things cumulatively support the vision of the City the symbol sets the tone.

Mr. Marcusen will review the ideas discussed tonight. The Council will continue its review on this matter at its July 19, 2005, workshop meeting.

- COUNCIL LIAISON REPORTS: None 9.
- NON AGENDA ITEMS: None 10.
- EXECUTIVE SESSION: The Tigard City Council went into Executive Session at 6:30 p.m. to evaluate the employment-related performance of 11. the chief executive officer under ORS 192.660(2)(i).
- ADJOURNMENT: 10:10 p.m. 12.

Attest:

Mayor/City of Tigard

2000

In an unrelated matter, Planning Commission President Padgett suggested the concession stand at Cook Park be used by organizations for fund raising when it is not being used by the Little League. It was noted that the equipment in the stand is owned by the League. Mayor Dirksen said Mr. Padgett's suggestion might be possible with proper coordination.

Meeting recessed at 9:12 p.m. Meeting reconvened at 9:19 p.m.

DISCUSSION OF BRANDING/GRAPHIC IDENTITY 5.

Assistant to the City Manager Newton introduced this agenda item. Consultant Marcusen and the City Council discussed identity themes that could be translated into a graphic identity. The City Council reviewed some initial concepts proposed by Mr. Marcusen and further refined preferences. Below are highlights of the discussion:

☑ Themes – continue to pursue family friendly; tributaries, trees and trails; and place to call home. Do not pursue sense of community or urban village.

☑ 'Continue to explore a tag line, such as "A Place to Call Home." The tag line won't necessarily be used in all instances and the tag line might not

be used as part of the logo.

☑ Council members selected several logo conceptual drawings they would like to see developed further.

☑ Council agreed it would be all right for Mr. Marcusen to present concepts he might think of as he continues to work develop ideas generated from this discussion.

☑ The best forms are often very simple.

- ☑ Type faces were discussed; Council members agreed they preferred a serif type face. Mr. Marcusen will explore using upper case and title case.
- 図 Once a decision has been made on the logo, guidelines should be developed with regard to its use. For example, how can the logo be altered (colors, font, etc.)

Mr. Marcusen will return with sketches for City Council review on September 20, 2005.

- COUNCIL LIAISON REPORTS: None 6.
- NON AGENDA ITEMS: None: 7.